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DEBATES

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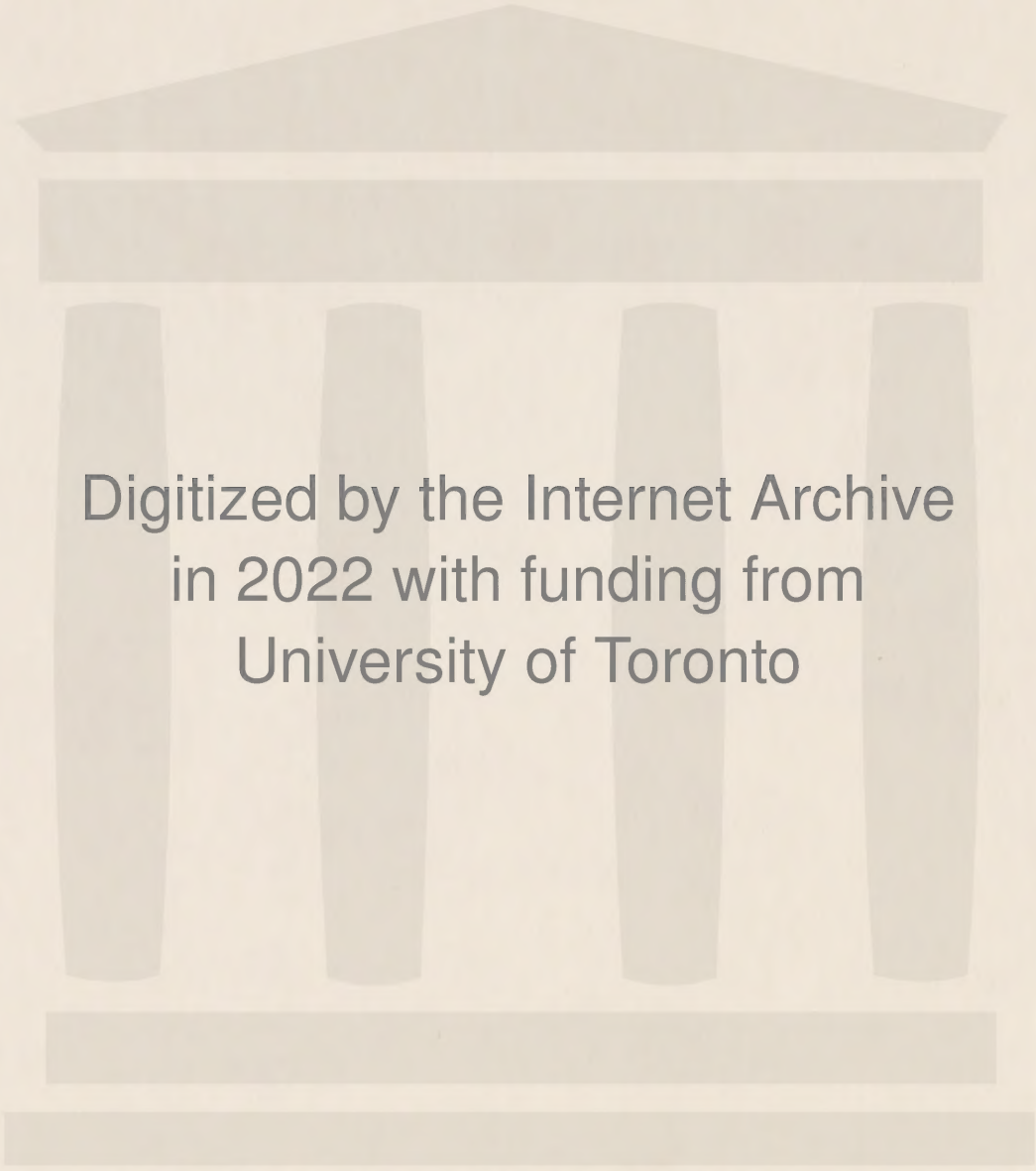

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Deuxième session, 36e législature

Official Report of Debates (Hansard)

Wednesday 6 May 1998

Journal des débats (Hansard)

Mercredi 6 mai 1998

Standing committee on regulations and private bills

Organization

Comité permanent des règlements et des projets de loi privés

Organisation

Chair: Toby Barrett
Clerk: Viktor Kaczkowski

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 6 May 1998

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI PRIVÉS

Mercredi 6 mai 1998

The committee met at 1002 in committee room 1.

ELECTION OF CHAIR

Clerk of the Committee (Mr Viktor Kaczkowski): Good morning. Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

Mr Derwyn Shea (High Park-Swansea): Yes. I would like to nominate Mr Toby Barrett.

Clerk of the Committee: Are there any further nominations?

Mr Tony Ruprecht (Parkdale): I'd like to nominate Marion Boyd.

Clerk of the Committee: Mrs Boyd is not a member of the committee, so I'm afraid I can't accept that nomination.

Mr Shea: Could we pause and give Mr Ruprecht time to reflect upon the membership of the committee? Who's your fallback, Tony? I move nominations close.

Mr Ruprecht: I withdraw my nomination.

Clerk of the Committee: All right, Mr Ruprecht. There being no further nominations, I declare the nominations closed and Mr Barrett elected Chair.

Mr Ruprecht: I want to make this unanimous. It's the unanimous choice of all three parties.

The Chair (Mr Toby Barrett): Thank you, committee. Perhaps as a good Chair I should remain relatively anonymous, because this committee is in your hands, and probably the most important people are the applicants. I've worked with all of you on this committee, and everyone has their say. We go clockwise, and we move things as rapidly as possible.

I should introduce the clerk to the committee. The committee has a recently appointed clerk, Viktor Kaczkowski.

Very briefly, I would like to also introduce an intern with my office, who is visiting from Lviv, Ukraine, Maryna Syrovatka. Maryna is observing at Queen's Park and will be in Ottawa later.

ELECTION OF VICE-CHAIR

The Chair: I would now ask the clerk for our next order of business.

Clerk of the Committee: That would be to nominate a Vice-Chair of the committee.

Mr Gary L. Leadston (Kitchener-Wilmot): I'd be pleased to nominate Mr David Boushy as Vice-Chair. Given the fact that he's not here, I think his remuneration should go to his sub, Mr O'Toole. However, I think David would serve on the committee without remuneration.

The Chair: As we're all aware, we are in the process of electing a Vice-Chair. We have one nomination, Mr Boushy. Are there any further nominations?

Mr Ruprecht: I second the nomination, Mr Chair.

The Chair: Thank you, Mr Ruprecht. There are no further nominations. I declare the nominations closed and that Mr Boushy be declared Vice-Chair for the standing committee on regulations and private bills. Mr O'Toole.

Mr John O'Toole (Durham East): Thank you, Mr Chair, and congratulations, I might add, to you and to Mr Boushy. But on the Mr Boushy point, as I'm the official sub on the day of this decision being made, I want to go away here confident that the records are clear that the allocation of the stipend is properly affixed to the proper name. As I'm the sub, I hope there are no accounting errors.

Mr Shea: So Mr Leadston was the shill.

The Chair: You and Mr Boushy may wish to informally strike a subcommittee and wrestle that out yourselves.

Mr Ernie Hardeman (Oxford): I would be almost sure, being the type of gentleman you are, Mr O'Toole, that you would be willing to do this free, gratis, on behalf of Mr Boushy.

Mr O'Toole: This is exactly the fundamental point I'm trying to make.

Mr Ruprecht: Mr O'Toole brings up a very important item of the morning. I want to know what the recommendation actually was. What was the recommendation?

Mr Leadston: I'm moving Mr Boushy as Vice-Chairman.

Mr Ruprecht: No, there was another recommendation afterwards.

Mr Leadston: No, no, we were just talking among ourselves over here.

APPOINTMENT OF SUBCOMMITTEE

The Chair: Our next order of business will be the appointment of a subcommittee for this standing committee. I would entertain any motions for membership or the establishment of a subcommittee.

Mr Tony Martin (Sault Ste Marie): I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting; and that the subcommittee be composed of the following members: Mr Barrett as the Chair, Mr Hardeman, Mr Caplan and Mr Martin; and that any member may designate a substitute member on the subcommittee who is of the same recognized party.

The Chair: Any discussion?

Mr Shea: No, I second it.

The Chair: Great. I think we vote on this. All those in favour of this motion? Opposed? Seeing none, it's carried.

Normally at this time the next order of business is work. Obviously there are no applicants today. I understand there are a couple; one, I know, is not ready.

Mr Shea: In the fullness of time, you'll bring it before the committee, right?

The Chair: Yes.

Mr Shea: Thank you, Chairman.

The Chair: I may suggest to the newly appointed subcommittee that perhaps the subcommittee could meet next Wednesday morning at the time normally allotted for this committee until we have some work.

Mr Shea: Good idea.

The Chair: I declare this meeting adjourned until the call of the Chair.

The committee adjourned at 1009.

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Mercredi 10 juin 1998

The committee met at 1004 in committee room 1.

CITY OF KITCHENER ACT, 1998

Consideration of Bill Pr15, An Act respecting the Corporation of the City of Kitchener.

The Chair (Mr Toby Barrett): Good morning, all. Welcome to this regular meeting of the standing committee on regulations and private bills for Wednesday, June 10, 1998.

We all have an agenda before us with a number of attachments. I wish to first mention a change with respect to the agenda. We wish to begin with the second order of business, Bill Pr15, An Act respecting the Corporation of the City of Kitchener. The applicants are here. I would ask the applicants to approach the witness table.

Private bill 15 is sponsored by MPP Wayne Wettlaufer. I would ask Mr Wettlaufer for some introductory remarks and then we would have the introduction of the applicants.

Mr Wayne Wettlaufer (Kitchener): Yes, I do have some introductory remarks.

Being an historian, I am particularly concerned about the loss of historical properties, or heritage properties, that we have experienced not only in my community of Kitchener but throughout Ontario over the past 20 or 30 years. I think we all have been in various parts of the world and have marvelled at the old structures and how the governments took care to preserve them, whether it be Georgia, where we have seen the antebellum homes preserved in the cities of Macon or Marietta, or whether we went to Savannah, Georgia, for instance, and saw how they preserved the old industrial properties and in some cases transformed them to today's uses while still maintaining the character of the properties. Or we could go to Europe and see the not just century-old but thousand-year-old buildings and again how they have in some cases transformed them to today's uses while preserving the character.

I think it's very important that we preserve our buildings for not just today's youth, not just tomorrow's youth, but the youth of generations to come. A civilization without history or without heritage is a civilization without a future.

This bill is substantially similar to other bills in other municipalities, such as the city of Toronto, the city of London, the town of Markham, the town of Milton, the town of Oakville, the town of Vaughan, the city of Burlington, the city of Hamilton, the city of Scarborough and the city of Brantford. I would urge the members of the committee to strongly consider accepting this.

The Chair: I would ask the applicants to please introduce themselves.

Ms Debra Arnold: My name is Debra Arnold. I'm a lawyer with the city of Kitchener and I prepared the compendium and the application for consideration by the committee and the Legislature. This is an application for private legislation with respect to demolition control of buildings and structures.

I think Mr Shea has —

Mr Derwyn Shea (High Park-Swansea): Excuse me. I just want to be put on the order for a question. Normal routine is just to watch to see who wants them. I want to go up first. Sorry.

Ms Arnold: This is an application with respect to the demolition control for properties that are architecturally or historically significant and really is intended to augment the current legislation under the Ontario Heritage Act.

Perhaps briefly, by way of background, I'd just ask my colleague Leon Bensason, who is a heritage planner with the city of Kitchener, to give a very brief overview of the city's heritage program before I talk a bit about the provisions of the bill itself.

Mr Leon Bensason: Mr Chairman and members of the committee, I'd like to take this opportunity to quickly explain to you why the city of Kitchener has made this application to seek greater control over the demolition of its designated heritage resources.

The city of Kitchener is committed to the preservation of its most significant heritage resources. Heritage policies have been in place in the official plan since 1977, and today the city has some of the most comprehensive heritage policies of any municipality in the province. Its local architectural conservation advisory committee, also known as LACAC, was established in 1979. Presently there are some 70 individual properties which have been designated under part IV of the Ontario Heritage Act and there are two heritage conservation districts in the city designating some 450 properties under part V of the Heritage Act.

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In 1992, the city formally established a heritage planning function within the planning department, and the city has had a heritage planner on its staff since 1993.

However, even with these measures, some of the city's most significant heritage resources continue to be threatened with demolition.

Like many other cities in Ontario, and especially southern Ontario, Kitchener was shaped by industry, and many of the industrial factories which helped define Kitchener still stand as reminders of Kitchener's great industrial past. However, newer, high-growth industries and the shift in the global economy have had an impact on the city. Several plant closures and the demise of certain types of manufacturing have led to the vulnerability of some of Kitchener's architecturally and historically significant industrial properties. It seems that problem has expanded and accelerated to impact not only industrial properties but institutional and commercial properties as well.

While the city has passed demolition control legislation under the Ontario Planning Act, that legislation is really limited to residential properties only. Many of our more significant non-residential resources have already been lost due to speculative redevelopment plans, and several more are threatened today. We have some images of some of the non-residential heritage resources in the city which are presently threatened with demolition, and I understand copies are being made for distribution.

What this proposed bill will do is provide city council with the ability to prevent the establishment of a vacant lot at the expense of a designated heritage resource. Like several other municipalities in the province which have already been granted similar legislation, we've recognized that this special demolition control power is key to meeting greater public expectations regarding the conservation of the city's heritage resources.

Thank you for this opportunity to address the committee, and I believe Ms Arnold would like to make some more comments.

Ms Arnold: Just briefly, to talk a bit about the bill itself, under the current legislation, the Ontario Heritage Act, there is provision for a city council, where it's appropriate, to refuse a demolition permit under that act and temporarily suspend the demolition for a period of 180 days. It's hoped that during that period of time some solutions come to the fore so that the building is preserved.

This private legislation — as Mr Wettlaufer mentioned, there are 10 other Ontario municipalities that have virtually identical legislation — would augment that so that not only is there the 180-day waiting period, but additionally, if there aren't immediate redevelopment plans so that the property owner doesn't have a building permit issued to redevelop the site, then the permit under the private legislation need not be granted.

It's simply a tool for city council. It's not something that would apply in every case, I'm sure. It's just where it's appropriate, and certainly there is provision in the private bill for recourse back to city council where the time frames are onerous. Appeal to the OMB is also provided for in the private bill.

As Mr Bensason mentioned, it's basically the mirror image of the demolition control provisions under the Ontario Planning Act, which have been in effect for many, many years. It's something that was needed in the area of non-residential properties that are of a historical or architecturally significant nature.

Those are my submissions. I thank the committee for its consideration of this private bill and I'd be pleased to address any questions or comments that the committee may have.

The Chair: Before we get to questions from the committee, are there any interested parties who also wish to speak to this bill?

Seeing none, I would now ask the parliamentary assistant, municipal affairs, MPP Ernie Hardeman, for comments on behalf of the government.

Mr Ernie Hardeman (Oxford): Good morning, Mr Wettlaufer and guests. I just want to point out, as the applicants have pointed out, that this is not a precedent-setting bill. In fact, the city of Toronto has an act similar to that, a private bill that was moved in 1987. The towns of Markham and Oakville obtained their legislation in 1991, the city of Vaughan and the city of Hamilton in 1992, Burlington in 1994. Scarborough, Brantford and Milton's bills were heard on March 27, 1996, which of course would have been during the term of this committee, so it would not be precedent-setting for the committee to approve this bill today.

As is done with bills of this nature or other natures that come before this committee, the bill has been circulated to government ministries for comments from ministries that may have some comments to make on the bill to assist the committee in their decision. Of course, the most prevalent ministry in this case was the Ministry of Citizenship, Culture and Recreation, which indicated that they have no objection to the bill, that they support this bill as a mirror image, I suppose, of the previous bill that had been passed.

It also is a similar bill to what the ministry is presently looking at in putting amendments in the Ontario Heritage Act to deal with the protection of our historical resources. So the ministry sees this as a stopgap approach to deal with the situation in Kitchener in anticipation of a province-wide piece of legislation that would deal with it across the province.

Having said that, they register no objections and leave the committee to make its own decisions.

There were no other replies from any other ministries that would assist the committee in its decision-making, as to whether it should or should not support the bill.

With that, we turn it over to the committee members, Mr Chair.

The Chair: I have several questions from committee members, and questions are directed either to the applicants or to the parliamentary assistant. Mr Shea.

Mr Shea: Let me first ask the parliamentary assistant — since he referred to the city of Toronto, let me start with that, and the applicant may want to listen to the question.

In Pr15, to your knowledge, Mr Parliamentary Assistant, are there any differences than what would be in the legislation applicable to the city of Toronto?

Mr Hardeman: My understanding is no, that they would be limited to zero differences between the two —

Mr Shea: I want to be very clear about that, because you did in your comments say this was not precedent-setting, and indeed I think your comments were, "This is a mirror reflection."

Mr Hardeman: I guess I do want to clarify it, Mr Shea, that I'm not personally aware of putting the documents side by side and knowing whether they are written in exactly the same way, but the intent of both pieces of legislation is identical.

Mr Shea: To your knowledge, is legislative counsel or anyone in the western world able to answer that question? I want to be assured that what we're looking at is in fact the mirror —

Mr Hardeman: It may very well be appropriate to ask the applicant, because I would not be surprised if in fact this document was prepared with the other documents made available to prepare it from.

Mr Shea: I'm going there next. Then let me turn my question to the applicant and ask the applicant to indicate where in their opinion this bill may include additional or less provision than would apply to, say, that for the city of Toronto or the other precedents that you had cited.

Ms Arnold: The city of Toronto bill, as I recall, may have had different transitional provisions and what not. I did not use their act as the basis for the city of Kitchener bill. I used some of the later bills: the city of Hamilton, Scarborough, Milton, Brantford. I know that when I reviewed their acts, one of the things that I changed, which in my view is a minor modification, was to deal with the fact that there could be a partial demolition of a designated property.

For example, on a historically significant designated property in the city of Kitchener I believe one of the designated aspects is the porch. We felt that the existing private acts of other municipalities don't address a situation where the owner wants to just partially demolish; for example, just wants to demolish the porch.

I revised that aspect of the previous bill to provide in our proposed bill that it could be demolition of part of the designated property or in its entirety.

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Mr Shea: Who makes that decision? City council?

Ms Arnold: When a property is designated, there are reasons for designation —

Mr Shea: I do understand that; I'm just trying to get to the point of who, in your opinion, has the authority to decide whether or not a partial demolition will be granted. Is that city council?

Ms Arnold: That's right, with a recommendation from its LACAC, its committee.

Mr Shea: So anything to do with that site, partial or complete, requires the council's approval within the specified time frame.

Ms Arnold: That's correct.

Mr Shea: All right. Now let me be very clear about this. The 180-day time frame is not just unique to this bill but is in common with all the bills, the 180-day time frame. Would you agree?

Ms Arnold: That's the time period that runs after council has made its decision.

Mr Shea: After council has made its decision.

Ms Arnold: And council has 90 days to make its decision.

Mr Shea: There is also a provision which requires a building permit to be issued.

Ms Arnold: There's no requirement that a building permit be issued.

Mr Shea: But if there is no building permit issued and one assumes either it has not been approved or plans have not been submitted for approval, then in what stage is the owner left? This is an area of some contention, for example, in the city of Toronto where council may want to try to find ways to effectively extend the 180 days well beyond that horizon. Do you follow the question? Let me put it into a scenario for you.

Ms Arnold: There is provision in our private bill at section 4 to provide relief from time restrictions, so that if council makes an initial refusal of the demolition permit under the private act —

Mr Shea: And it has up to 90 days to do so.

Ms Arnold: That's correct. The 180 days have elapsed and council has, by effect, imposed then the requirement that if the owner is not going to build a new building on that site after demolition and complete it within two years, he can't proceed with the demolition. There is provision, under section 4, for the property owner to apply to city council for relief from those restrictions, that the construction of the new building has become not feasible on economic or other grounds or it's not possible to complete the new building within the two-year period. Further, beyond that, if the property owner is not satisfied with the decision of council, under that section he or she has recourse to the Ontario Municipal Board.

Mr Shea: That process in some cases could take forever. We understand how municipal councils can take advantage of time frames, to the advantage of their community as well as in some cases to the disadvantage of applicants. That may, from time to time, occur. We're talking 90 days, we're talking 180 days and we're talking about appeal processes that may or may not click in either at the end of 180 days or what then effectively could be 270 days.

Ms Arnold: Correct. Well, 269.

Mr Shea: On the 270th day, either at midnight —

Ms Arnold: Yes.

Mr Shea: It's like the millennium debate: When does it occur?

Ms Arnold: If council meetings coincide, then you're right, it could be a maximum of 270 days.

Mr Shea: At that point, even if council refuses to grant a permit and the applicant is still of the opinion that negotiations have not been fairly undertaken with council — it doesn't happen very often, but obviously one has to assume there could be some opportunities in the future

where that may be the case — then the applicant has to go to the courts or OMB for relief.

Ms Arnold: Yes. Anyone can go to the courts. Whether or not they're going to have jurisdiction or be successful —

Mr Shea: But the courts are not going to hear much before the 270.

Ms Arnold: No. Because there is the built-in appeal to the Ontario Municipal Board, I would think that the courts would decline jurisdiction because there is appeal to the Ontario Municipal Board.

Mr Shea: That's my point, that then the OMB process clicks in. What is the time frame for the OMB hearing?

Ms Arnold: That's up to —

Mr Shea: Up to the OMB.

Ms Arnold: That's right.

Mr Shea: One then takes the 270-day horizon and adds on to that a horizon, whatever it may be, that is within the purview of the OMB?

Ms Arnold: It's up to the applicant. If during the council's 90-day time period to consider the application they render their decision, which is to refuse the demolition permit, then I'm not sure why the applicant would wait the 180 days to go the OMB. If he has his refusal from city council, I imagine that it would be reasonable that he would immediately appeal to the Ontario Municipal Board and not wait the six months.

Mr Shea: That's a very reasonable response to my question. There have been cases where councils have not been quite as reasonable, that have waited until the 180th day to make a comment.

Ms Arnold: I imagine that's also a matter for the Ontario Municipal Board, when they issue their procedural order for that particular appeal and issue deadlines for the municipality to respond and proceed with the appeal. That's again a matter for the Ontario Municipal Board, to move the appeal along. It's not something that the municipality has control over because they —

Mr Shea: Let me make sure I'm very clear because we're both at cross purposes here. The fact is the 90 days is very clearly set as a time frame within the control of council; 180 days is something that has been legislated with agreement across the province. That's a 180-day horizon period. That is very clear and fixed. Council doesn't have to do anything until the 180th day. Would you agree?

Ms Arnold: No, I'm sorry.

Mr Shea: Would you disagree?

Ms Arnold: Let me go back to the process. Council has 90 days to render a decision. If on the 90th day council refuses the demolition permit, the owner has a number of options at that point.

Mr Shea: Within the 180-day frame?

Ms Arnold: On the 90th day, when he has his decision in hand, the owner can decide to wait the 180 days and then he is entitled to a demolition permit.

Mr Shea: That's the point I was waiting to hear. I want to make sure we're very clear that at that point, in your mind as well as everybody else's, it is clear that it would automatically be granted at the end of 180 days.

Ms Arnold: Under the current legislation, under the Ontario Heritage Act, that is the law as I understand it.

Mr Shea: And Pr15 is not doing anything to mitigate that?

Ms Arnold: The proposed bill would add to the 180-day period and further say to the property owner, "If we think it's not appropriate to demolish this building, if we want to try to find a way to save this building, then there is going to be a 180-day waiting period and we are not going to grant the demolition permit unless you also have redevelopment plans as evidenced by issuance of a building permit and, further, that the building is essentially completed within two years of the demolition of the designated building."

It builds on the current —

Mr Shea: The owner can then go for relief if he says, "Look, this is not reasonable," or go to the OMB.

Ms Arnold: That's right. He can go to council and say, "It's not economically or otherwise reasonable or appropriate for you to say that I can't just demolish this building and walk away and leave a vacant lot." Council may at that time agree and say, "You're right."

Mr Shea: Or disagree.

Ms Arnold: Or disagree.

Mr Shea: What happens when they disagree?

Ms Arnold: If council disagrees, then the property owner can live with that decision or appeal that to the Ontario Municipal Board.

Mr Shea: This is still the point under which I am — what we're doing is extending the 180 days into another process which can go on for what period of time we're not sure. That's in the purview of the OMB.

Ms Arnold: Of the OMB and the appellant, the property owner.

Mr Shea: Is there some reason why your clients need to go beyond the 180 days? If we're not talking 270 days in total and if the council and the owner at that point simply can't arrive at any kind of an understanding, is there any reason to ask for authority to protract that debate even further? And the cost, I might add.

Ms Arnold: We certainly recognize in the proposed bill that we don't want to hold up redevelopment plans. Redevelopment plans are generally good for a municipality in terms of property tax revenue and employment and other good things. However, we do want to provide for the preservation of a designated property where the proposal is simply to demolish the building and leave a vacant lot, possibly for speculative purposes, possibly for other reasons. We see that there's no immediate need to demolish a building that is a treasure, a part of our heritage resources, to leave a vacant lot.

Mr Shea: While I understand and approve that philosophy, even though others may not — I approve what you've just said. But having said that, also having had my own experience with municipal government, one has to say, surely, if you have not been able to arrive at some kind of an understanding within 270 days, you've got

trouble in River City. Is there a way to bring that to a speedy resolution, or are we simply saying it is a war of attrition, it's to enrich the lawyers, and let's get on to the OMB and carry on and see if we can expedite this as much as possible?

Ms Arnold: It's in the hands of the property owner. The property owner may think, "I'm going to just wait now, not appeal to the OMB, wait until I do have a redevelopment plan and then again apply under the bill for a demolition permit."

Mr Gary L. Leadston (Kitchener-Wilmot): I wasn't sure whether the honourable member has a vested interest in any of these properties or other properties in the city of Kitchener. I was a little concerned there for a moment where he was going.

I'd like to, first of all, welcome not only my good colleague Wayne but Debra and Leon, people I worked with when I was on council in the city of Kitchener. I'm quite familiar with these properties. I envision the private member's bill as an act that's applicable to the city of Kitchener. It may or may not be to the city of Toronto or another municipality, but it's a compilation, I'm sure, of other acts and input from the community, particularly the historical community and the legal community. But bear in mind that it's applicable to the city of Kitchener. It's their needs. It's a tool to assist them in the preservation of historic properties.

I compliment them and I'd be remiss if I didn't acknowledge the late Mike Wagner, a councillor I served with, who through his stewardship of preservation and historical committees, both in the city and the region, I'm sure is shining down on us this morning and complimenting Debra and Leon for bringing this forward. Thank you very much.

Mr Hardeman: I guess when I put my hand up to the question I had a different train of thought than I have now, with the comments from Mr Wettlaufer. I do want to put out to the committee — and this is not necessarily the gospel; it's just my opinion — but I think it's very important that we recognize that this act does apply only to the city of Kitchener and the ability of Kitchener to protect their historical designation. But as it relates to what this committee is going to be asked to vote on, it is giving authority to a level of government to deal with private property within their municipality.

As a citizen of Kitchener or a citizen of any municipality which has the ability to create these types of bylaws, I am going to be governed differently and I'm going to be told I can do different things with my property than I could if I lived on the other side of the line. As an individual, I buy a property on one side of the line. Technically, I suppose, I could buy a property that is on the border between Kitchener and Waterloo and that could be a historically significant building. I could get a building permit and do with that piece of property on the Waterloo side as I saw fit, but because of what the provincial government has done in giving the city of Kitchener authority to regulate the other half of the building I no longer can do that. I'm not sure that the people in the city of Kitchener own that building or should control that building. I suppose, as an individual, I have some concerns with that.

I do want to ask a question to the applicant. It was referred that this bylaw or the authority for this goes a little further and it deals with partial demolitions as opposed to all the others dealing with only the demolition of a building. How do you deal with a request for a demolition to take part off a building that you have absolutely no intentions of replacing? I may have a building with a veranda or an overhang on the front that is no longer of value to the property owner. In fact, they're not going to replace it, it's going to be totally removed, so we just want a demolition permit. Can the city, through their bylaw, say, "No, you can't change that building unless you build a new veranda on it in exactly the same way that the old one is there"? Can we put the property owner through the same hoops to replace a veranda as to replace the 100,000-square-foot building?

Mr Bensason: I'll try to answer your question. The city has in the past dealt with partial demolitions of properties that have been designated under the Ontario Heritage Act. When a property is designated, it's the real property that in fact has the bylaw that's registered against the title of the property. Then, as Debra Arnold had mentioned before, it's the reasons for designation that identify what are the specific features that make that particular property significant.

In some cases, it's features that aren't included in the reasons for designation that might apply to a demolition application, in which case it's granted. In other cases in the past, we've had experiences where a particular feature that is significant has been requested for demolition and it has been granted as well. Council appreciates that these designations have to recognize that buildings evolve, need change, and that certain portions of buildings may have to be demolished to make them more functional and useful.

Mr Hardeman: I may not have got to the point. I think the ability to restrict demolition exists presently in the Ontario Heritage Act and it doesn't go to the point that, beyond that time, you have to allow or not allow a demolition. You want to include in the act now that to get a demolition permit will require the issue of a building permit, so you are going to replace what is there. You're not just tearing it down to get rid of it. You are actually removing it for further development.

Mr Bensason: Right.

Mr Hardeman: A partial demolition is not predicated on replacement. It may be to remove it. I may want to take the side off this historic building to create a parking lot. I don't need a permit for a parking lot. Can the municipality refuse the demolition because I do not have a permit to replace something?

Ms Arnold: Maybe I could just respond. As Mr Bensason mentioned, a designation doesn't mean a bylaw is registered against the real property. Within that property there may even be a farmhouse, a barn and an outbuilding, for example. I felt that the other municipalities' bills that I looked at didn't address where it was just the demolition of the outbuilding and not the farmhouse. It

was just demolition of the entire site that would require the building permit and not demolition of part of the site, so I suppose in that example, if they just wanted to demolish the barn, I felt that the bill should address that type of a partial demolition of the designated property as a whole.

Mr Hardeman: To get very specific, in my own municipality a number of years ago there was a church that had a steeple that was getting in bad shape. They looked at designating it in order to get some assistance through, at that time, the Ministry of Culture to repair the steeple. When the parishioners realized that, even after the grant process, to follow the rules under the heritage designation it was going to be more costly than they could afford to put up, they decided to just remove the steeple. If this authority was granted to my municipality, could they have said, "You can't get a demolition permit to remove that steeple unless you show us that you're getting a building permit to put something back," if the building was designated?

Mr Bensason: In a case such as that, we wouldn't consider that to be a demolition. It would be an alteration application under the heritage act and not under the private bill. This private bill wouldn't kick in because it's considered to be an alteration. You're essentially keeping the church structure. It's just the steeple that you're altering by removing it. There wouldn't be any added obligation in terms of getting a building permit in order to make that alteration.

Mr Hardeman: The significance is that a demolition permit is the removal of a total building?

Mr Bensason: A total building or a portion thereof, but we're not talking about an alteration; there's a difference between an alteration and a demolition.

Mr Hardeman: I was reasonably happy if a demolition is to remove the whole building. But if you're talking about the municipality getting to decide what is an alteration and what is a demolition, that they can decide that I no longer can get a permit to take the lean-to off the side of the building because it's historically significant, and I have to apply at the same time to put another lean-to on it, I think that may be giving authority to local government that is well beyond the property rights this government doesn't have that belong to the people who own the property.

Mr Frank Sheehan (Lincoln): Mr Shea and Mr Hardeman have expressed most of my concerns. I think you're going beyond what is reasonable. I think the provincial heritage act covers the interests, as well it might. You might strengthen your bill if you were to put some alternatives in place for the landowner, the property owner; ie, if he does not have development rights but you think it's worthwhile, then there should be a tax abatement on his property. Further, if you want to move it — and I didn't see it there —

Ms Arnold: There is under the Assessment Act.

Mr Sheehan: Right down to zero?

Ms Arnold: If it's vacant commercial, it's assessed at —

Mr Sheehan: Down to zero?

Ms Arnold: That's provincial jurisdiction.

Mr Sheehan: Okay, I stand to be corrected. I'm not an expert on it. The other thing is, if you are going to push beyond the 270 days that Mr Shea was talking about, then I suggest you put a provision in to buy the property. If you want it, you should buy it. You should not impose your will on the citizen. That's my comment. I can't support the bill.

Mr Shea: I don't want to keep chewing at this because I want to make a comment as well. There is one fundamental question I have to ask the deputants: Has Pr15 received city council approval? Two, has Pr15 been circulated to the municipality for public deputations?

Ms Arnold: Just to review the process for an application for a private bill. Maybe if the committee members are provided with a copy of the compendium, they will see that the minutes of council's meetings are attached. A copy of the resolution of council and the confirmatory bylaw authorizing the application for the private bill are attached. A requirement that the province imposes on making an application is that there has to be advertisement, I believe, four times in the local newspaper and there has to be advertisement, I believe, four times in the Ontario Gazette as well.

Mr Shea: Your answer is helpful, not quite complete. Did city council hold a particular hearing or set aside a time for deputation?

Ms Arnold: This application came before the city's Heritage Kitchener committee, or LACAC as it's known under the Ontario Heritage Act. This appeared as an item on its agenda. Any member of the public could appear and speak to the committee members about the proposed bill. Then subsequently, in February —

Mr Shea: Let me just interrupt for a minute. That committee is a committee of council?

Ms Arnold: It's a committee made up of city councillors. It's a committee of council in that there are city councillors on that as well as interested members —

Mr Shea: It's an agency, board, commission thing; it's not a standing committee of council in the formal sense. I understand what you're saying. It heard deputations and then it reported out to council?

Ms Arnold: That's correct, with a recommendation that the application be proceeded with. Then in February 1997, this matter came before city council again as an agenda item. Any member of the public was welcome to appear and make submissions. Subsequently, in the fall of 1997, the prepared application compendium was presented to Heritage Kitchener for its consideration and report to city council, which followed at the end of October 1997, at which time council approved the application and compendium by way of resolution and confirmatory bylaw.

The advertisements that I previously mentioned are designed, of course, to bring it to everyone's attention in addition to it being on the agendas of Heritage Kitchener and council twice each, for a total of four times. I believe the net result of all those efforts was two submissions by members of the public, the first of which was a planning

consultant with whom we met and, I believe, alleviated his concerns on behalf of his client so that they had no concerns and, as you see, are not here today. The second person who wrote to express his concern I don't believe is present today. I had no contact with him. That was the net result: two parties who expressed a concern and one of whom appears to be completely satisfied with the content of this bill.

I just want to emphasize that not only have 10 other municipalities had this legislation in place, but I was unable to find, in a search of the law database, any appeals on any of this legislation to the Ontario Municipal Board. I may stand to be corrected, because this is just my research, but I was unable to find any appeals to the Ontario Municipal Board. As I believe was mentioned, the Toronto legislation has been in place in excess of 10 years.

I also want to emphasize that this legislation is of the same theme as the demolition control under the Planning Act. I don't know if the members are familiar with that. The demolition provisions of the Planning Act have been in place in excess of 20 years; I stand to be corrected, but I know at least 20 years. They provide that you cannot demolish a residential property — and it doesn't matter if it is historically or architecturally significant at all. My house, your house, if you want to demolish that house, council can refuse to issue the demolition permit under the demolition control bylaw of the Planning Act unless you have a building permit issued for that same site and intend to immediately build another building on that site within a stated time frame; it can't be less than two years.

Mr Sheehan: Then why do you need the bill?

Ms Arnold: Because that, as Mr Bensason mentioned, only applies to residential properties, heritage or non-heritage properties. It doesn't apply in the case of non-residential properties. There is circulating a colour photocopy of four examples of non-residential heritage properties in the city of Kitchener that the city is interested in preserving; not standing in the way of redevelopment, but saying, "Let's not rush to demolish a building and leave a vacant lot if it's possible to redevelop the site using the facade or other features of the existing building, or without building another building on that site."

I just want to emphasize this is not by any stretch a revolutionary concept that I'd otherwise love to claim credit for; it's a theme that's been in the Planning Act demolition control provisions for over 20 years. As I said, 10 other municipalities have this legislation.

The Chair: Mr Martin.

Mr Shea: No, I'm not finished yet.

Mr Wettlaufer: I wonder if I can add something to that.

The Chair: Okay, Mr Wettlaufer and then, Mr Shea, you had a supplementary question.

Mr Shea: No, I hadn't completed my questioning, but thank you.

Mr Wettlaufer: In the photocopy of the photos that has been circulated, the top left-hand corner is one of the finest examples in our region of Georgian architecture. That is a prime example of a building which could be modified on the interior to provide tenant housing, for instance. It's the old St Jerome's high school building. It's 100 years old, give or take. It is an example of a building that the residents of the city of Kitchener would like to preserve.

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Mr Tony Martin (Sault Ste Marie): I'm satisfied with the work that the applicants have done on this piece. I think it's in keeping with the efforts of a lot of communities to try and retain our history, our heritage. I think in this day when we are so often caught up, it seems, in who we are, it's important that we remember who we are by way of some of these buildings and symbols, what they mean and the stories they encase and preserve for the communities in which we all live. So I'll be supporting the application.

Mr David Caplan (Oriole): The motion from city council was that this bill is to be substantially similar to the ones passed for the city of Milton and the city of Brantford. You've cited another dozens examples or so of legislation, which is actually quite recent, drafted in this regard. If that's the case, this is really nothing new for this committee. We've done this for these other locations and communities across Ontario, and if the dictate of the council is to follow a similar kind of pattern, I have no problem at all supporting this application.

Mr Dave Boushy (Sarnia): I have no problem with that either. I think this government is encouraging local decisions, local control. There are a lot of provisions in this bill that before any decision is made there will be city-wide public consultation and the public has the right to appear at city council and indicate their support or lack of support. I'm not worried about that. I move acceptance of Bill Pr15, Mr Chairman.

The Chair: I have some further questions. Mr Hardeman.

Mr Hardeman: I share most of the comments that were just made as they relate to this committee having dealt with a number of pieces of legislation that are the same as this. My only concern is not where we are the same but where we are different, I guess maybe to the detriment of the applicant being very thorough in their presentation, suggesting that the only place we are different is that we have extended this authority on partial as opposed to full demolitions. This would give more authority in Kitchener than anywhere else in the province, if this is the only one that has that.

I have a question as to how much the applicants believe this will change the scheme of things in Kitchener. I know you put it there because you realized that may come up. Do you envision that as a major issue in Kitchener? You mentioned the issue of a farmstead with a house and a barn and driveshed and the fact that you want to be able to demolish one. In the city of Kitchener how many historical farmsteads do you have and how often will that come forward?

The other one, if I could just quickly, is that I have a copy of a note that was sent through the public notice. I'm

not sure you can answer it, but the individual says he is opposed to the application the city is making: "As a victim of this confiscatory act, I protest this action. Actions of this and similar kind should be treated like expropriation and fall under the coverage of the Ontario Expropriation Act...." Could you give me a bit of an explanation of why you believe that's not so?

Mr Bensason: Let me try to answer your first question. Number one, there are a number of heritage farmsteads in Kitchener. The city hasn't grown to its capacity. There are undeveloped areas in the southwest part of the city that are considered to be rural, and a number of these farmsteads depict Mennonite-style settlements where you have a number of outbuildings and structures that are considered to be historically significant. That is something to be taken into consideration.

The other point I'd make is that, for example, I draw your attention to the upper-right-hand photograph. I don't know if you have colour photographs or just photocopies, but this is the Governor's House and Old Waterloo County Gaol. An example of a partial demolition might include the retaining of the wall itself but the jailhouse and the Governor's House might be demolished. Those are two structures that are extremely significant. They all work together. They're all attached. That might be an example of something we'd want to try to prevent until such time as they're ready to redevelop the entire site.

As for your second question, the property of the individual who made those comments is not designated, so this bill would not apply to them at all. They are only on what's called a heritage inventory, which means that the committee has identified the property to be of architectural historical interest and that we invite that property owner to use the city as a resource of information if they are contemplating making any exterior alterations. But there are no restrictions. They are not considered to be formally designated under the Ontario Heritage Act, so I believe that individual misinterpreted whether this bill applied to them or not. They are not designated and it wouldn't apply.

Mr Leadston: Very briefly, I think this bill sets a balance between those in the municipality who have the right to do as they wish with their property and also those who are the leaders in the community who are also interested in the preservation not only of the future but of our past. I think this bill sets a balance. Obviously I emphasize again that it's applicable primarily and only for the city of Kitchener. I would ask that the Chair call the question.

The Chair: I have another question from Mr Shea.

Mr Shea: No, he's put the question.

The Chair: I beg your pardon?

Mr Shea: No, he's put the question. We can't debate it. We've got to vote on whether to put the question or not.

The Chair: I see no further questions or comments from the committee. Is that correct?

Mr Shea: No, Chair. On a point of order: Mr Leadston has called the question. Under the rules of proceeding you must now ask the committee, will they go for the vote or not? He's moved closure.

The Chair: Are the members ready to vote? Okay. Motion carried.

We are voting on Bill Pr15, An Act respecting The Corporation of the City of Kitchener, sponsored by MPP Wettlaufer.

Keeping with tradition, there are 10 sections. I wish to collapse those sections.

Mr Caplan: Who's moving this?

Mr Hardeman: Boushy and Leadston.

The Chair: Are there any motions for amendments to any of these sections? Seeing none, I wish to collapse sections 1 through 10. Shall sections 1 through 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

I declare this order of business closed.

Our second agenda item as listed is not occurring today and this committee is adjourned at the call of the Chair.

The committee adjourned at 1058.

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Mercredi 17 juin 1998

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi privés

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 17 June 1998

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI PRIVÉS

Mercredi 17 juin 1998

The committee met at 1006 in committee room 1.

REDEEMER REFORMED CHRISTIAN COLLEGE ACT, 1998

Consideration of BillPr17, An Act respecting Redeemer Reformed Christian College.

The Chair (Mr Toby Barrett): Good morning, everybody. Welcome to this regular meeting of the standing committee on regulations and private bills for Wednesday, June 17, 1998.

You have an agenda and attachments before you. This morning we will be proceeding with item number 2 on the agenda, Bill Pr17, An Act respecting Redeemer Reformed Christian College. The applicants are at the witness table. I would ask MPP Toni Skarica, member for Wentworth North, for some introductory remarks, and then we'll have introductions of the applicants.

Mr Toni Skarica (Wentworth North): It's my privilege to introduce the private bill, Bill Pr17, An Act respecting Redeemer Reformed Christian College. If I could just introduce the representatives of the college who are here, to my immediate right is Elaine Botha, who is vice-president, academic, of the college. To her right is Dr Justin D. Cooper, president of the college. To his right is Albert Bakker, solicitor to the college, and to his right is Ben Harsevoort, chairperson for the board of governors for the college.

The bill is a compilation of the present bill respecting Redeemer Reformed Christian College and introduces two changes. First are a number of housekeeping matters. Second, and the main reason for the bill, is to revise the college's degree-granting authority to permit it to issue BA and bachelor of science degrees consistent with the liberal arts and science programs it already offers under its current charter.

There has been widespread acceptance of these programs as being equivalent to programs offered by universities that have degree-granting powers across Canada and abroad. Dr Cooper will be submitting a list of those institutions. The Ministry of Education recently undertook a review of the programs offered by the college. The academic review panel reviewed the current programs and concluded in a letter dated June 15, 1998, which again will be provided to you by Dr Cooper — it's signed by the Honourable David Johnson, Minister of Education — that Redeemer College provides arts and science undergraduate education of an Ontario university standard.

The bottom line is that the act attempts to, and in fact does, formalize in law what already is accepted in fact by the educational community and the ministry and in Ontario, Canada and abroad, that the programs offered by Redeemer College are of a university standard and equivalent to university programs that do offer and are entitled to give BA and BSc degrees, and would give Redeemer the same degree-granting power. Dr Cooper also will indicate some of the benefits, from both economic and educational standpoints, for the province.

Those are my introductory remarks.

The Chair: Dr Cooper, do you wish to make some comments?

Dr Justin Cooper: Thank you very much. It's a privilege to be here to speak to Bill Pr17, the charter amendment of Redeemer College.

I would like to begin by just explaining who we are. Redeemer College is not a bible college or a theological college. It's sometimes misunderstood for that. It's also not a community college or an applied arts college. Rather, what we are is an interdenominational Christian liberal arts college offering an undergraduate arts and science university education from a Christian perspective on the basis of the provincial degree-granting charter which we received in 1980.

We're located in Ancaster, Ontario. We have a 78-acre campus and we serve some 500 students who come largely from Ontario but also from six other provinces, 14 countries and from 30 different denominational backgrounds. We are a unique institution and, to the best of our knowledge, the only one of our kind in the province of Ontario. We are also a regular member of the Association of Universities and Colleges of Canada.

I think it's also important to clarify for the committee what we're asking for here today. We've mentioned already that we have an existing charter. In fact, Bill Pr17, which you have before you, is largely our original charter with a few amendments that pertain, firstly, to some housekeeping matters in our governance, and, secondly, to revising the names of the degrees that we would offer to the students who complete programs.

I'd like to stress that we're not seeking powers to offer new programs. We already have that under our existing charter. What we are asking for is a change in the names of our degrees to BA and BSc, which you find in section 7(9). Two other items that I would highlight: an increase in the number of general board members to 21, which is in section 4, and we're also wanting to add alumni members

to our board and senate. You find those matters in sections 4(2) and 7(1).

Why are we seeking this? I would like the committee to be aware that our programs are widely recognized by universities as the equivalent of a BA/BSc program, as Mr Skarica has mentioned. But it's also the case that at times our degrees are misunderstood as representing degrees in theological studies. We feel that this change will eliminate the confusion about what our programs actually are. It's also a question of fairness for our students, that they will be able to have a degree which represents the work they have done and they will be able to apply for jobs and for application to graduate school on the same basis as other students.

At the same time, granting us the BA/BSc degrees will also give the choice of an Ontario alternative to the over 1,000 students who now leave our province to pursue a Christian liberal arts education which leads to the BA/BSc in other provinces and in the United States. That's the niche market we serve, and we'd like to be equipped to serve and attract these students and keep them in our province.

Of course, as we give them the incentive to study in Ontario, I think you should also be aware that that keeps at least $11,000 to $12,000 per student in the Ontario economy. It also enhances the possibility of more quality graduate students applying to Ontario universities. We like to summarize that in terms of scholars and dollars as a reason why we are seeking this.

Of course, the major point we want to make is that through our track record we have demonstrated that we meet Ontario university standards, not only through our AUCC membership but also through our established track records where our graduates have been admitted to a wide range of graduate and professional programs at over 65 graduate institutions in Ontario, in Canada, in the United States, in Europe and in Australia. We have a list here that we'd be willing to circulate to members of the committee, if you haven't seen that, which demonstrates that.

The committee should also be aware that our liberal arts curriculum and our science programs have been reviewed by the University of Guelph. We have established an articulation agreement with them in chemistry and biochemistry whereby students can complete three years at Redeemer and a year to a year and a half at Guelph to get the honours bachelor of science.

I think most significantly, we have successfully undergone an academic assessment by a peer review panel as mandated by the Minister of Education. That panel unanimously concluded that our liberal arts and science programs are of an Ontario university standard. In fact, Dr George Connell, who chaired that committee — he was joined by Dr Ron Childs from McMaster and Dr Ross Rudolph from York University — wrote us in the concluding letter that they found us to be an impressive institution. That was echoed in the letter from the minister, which I will refer to again in a moment.

In order to maintain quality at our institution we've also agreed to be reviewed every seven years as part of the cyclical undergraduate program review process which is carried out by the Council of Ontario Universities. This is something, again, that we discussed with the ministry and with the minister.

Finally, I think it's important in the financial area for this committee to be aware that we are funded by tuition, by ancillary revenues and by donations — completely privately funded — and that we have committed in writing to the minister that we will not seek government operating or capital funding. So this happens without cost to the taxpayer.

In summary, I'd like the committee to be aware that we have a wide base of support and that we have dealt with all the stakeholders in this. We've consulted with the Council of Ontario Universities and the council has no objections, as confirmed to me in a meeting with its chair, Professor Robert Prichard, the president of the University of Toronto. We've cooperated with the Ministry of Education and we have the support of the Minister of Education, which he has given us in a letter that I will also submit, where he concludes: "Please accept my congratulations on an outstanding assessment. Ontario is indeed fortunate to have Redeemer College as part of its post-secondary system and I wish Redeemer the very best in its future development."

As you read that letter, you will also note that the minister has asked us to commit to looking at our review process for faculty appeals. That is a technical matter. I can go into it more if you as a committee would like, but let me just say that we concur and we've indicated in writing to the minister that we will undertake to alter our appeal process for faculty evaluations in order to improve it. In that way, the review was very, very helpful to us.

I'd also like to mention that we have local support in the Hamilton-Wentworth region, including all-party consent among all of our local MPPs. I'm very happy to see David Christopherson here this morning, who is one of those, along with our local Liberal member and all of the Conservative members.

Finally, we have strong support among members of our province-wide supporting constituencies, which include members of all of the 30 denominations that send students to us. I have also for the committee some sample letters so that you can see some of the letters of support which we have.

For these reasons, we are hoping that also this committee will support our private bill. Thank you.

The Chair: Thank you, Dr Cooper. Do any of the other applicants wish to make comments at this time?

Dr Elaine Botha: Not at this point in time.

The Chair: Secondly, are there any interested parties who wish to speak to this bill? I see none.

At this point, we ask MPP Ernie Hardeman, parliamentary assistant to the Minister of Municipal Affairs, for comments on behalf of the government.

Mr Ernie Hardeman (Oxford): Thank you very much, Mr Chairman, and good morning.

As with all private bills, the bill has been circulated throughout the government establishment. Of course, being an education bill, the only minister who has made any significant comment is the Minister of Education. As

was mentioned by the member for Wentworth North, upon receiving the review of the academic review panel, the minister was convinced that the type of program provided at Redeemer College is of such a standard that this bill would be applicable.

In the letter I have at least, and that I think the member for Wentworth North referred to, the minister lends his support to the bill. Not to suggest that the committee should necessarily do what the minister says. As it is a private bill, the members of committee can vote their wishes, but from the government point of view the general thrust of the bill obviously is housekeeping amendments, as was mentioned by the applicant, to change the members of the board and the number of the members of the board and so forth.

The only issue of some debate is the degree-granting authority and the minister is supportive of that. We would leave that up to the committee members to vote if they see fit, but the government does support the passage of the private bill.

1020

The Chair: Thank you, Mr Hardeman. We now call for questions from committee members directed either to the applicants or to the parliamentary assistant, beginning with Mr Shea.

Mr Derwyn Shea (High Park-Swansea): I was going to ask a question, and now in the light of the last comments of the parliamentary assistant, I can simply make a comment. This is probably one of the most concise, well-presented, thought-out presentations I have heard in some time. My compliments to Mr Skarica, to all the members of the provincial Parliament in the region who have given their support and worked together, and to the applicants. I find this a treat to have it presented in such a precise fashion and it's very helpful. Obviously I will be very supportive.

Mr David Caplan (Oriole): I have a couple of questions and maybe some comments as well. To Dr Cooper, you talked about really the unique role of Redeemer College and some of the changes; some are of a housekeeping nature, others will allow the granting of degrees for arts and liberal arts programs. In your previous terms of reference, you had the ability to do that if it was done in association with another institution, a university established under an act of the Legislature or another body which is recognized as well. Why do you feel that you need to make this kind of change, from that arrangement to this one where you stand on your own?

Dr Cooper: Thank you for that question. I think the section of our bill you're referring to is the one that talks about concluding agreements with other institutions in section 3. The thumbnail for that I guess is affiliation.

Mr Caplan: Yes.

Dr Cooper: I think it's fair to say that earlier in our history we explored the route of affiliation and we found that we were not able to come to an affiliation agreement that was acceptable, both to ourselves mutually and to our host university. We were not able to find a university that really was interested in pursuing affiliation. So while it's in the charter as an option, it really isn't a realistic or a live option, we found.

When we talked with the Council of Ontario Universities in April, Bonnie Patterson, the president, indicated to us that in their view, the presidents having talked about this, affiliation really was not an option either. They said a forced affiliation really is in no one's interest. So for a variety of reasons, and I can go into those if you like, we have explored it and just found it not to be a realistic option in our case.

Mr Caplan: To offer the programming you do and have the appropriate designation, you're not able to go into the kind of arrangement that you were allowed to previously, so you need this added ability to grant degrees for bachelor of arts, bachelor of science, in those kinds of areas?

Dr Cooper: For the programs we're offering, independently.

Mr Caplan: For the programs you're offering now. I understand you said that you went through a very thorough peer review. The minister has gone through that and there will be a cyclical review as well, and that's something you've agreed to. I think that's critically important, that there be quality control for our post-secondary institutions, and I'm very pleased to hear that.

I have a couple of further questions. As you know, Dr Cooper, I believe in 1984 there was the Robarts policy which talked about new degree-granting institutions and new universities, and the recommendation or the policy which has been in place since then has been not to grant any new universities or degree-granting institutions. Why should Redeemer College be exempted from that policy which has been in place essentially for the last 15 years?

Dr Cooper: The reference you make I think is to the degree-granting act that was brought in in 1984, which really did restrict degree-granting to those institutions which would be so authorized by an act of the assembly. I believe the answer to your question probably lies in a parallel that we would draw between, say, our situation and Ryerson.

Ryerson is an existing institution and the Legislative Assembly amended their charter, because prior to 1993 they granted a restricted degree and they then made the argument, similar to that we're making, that they needed regular degrees to represent their programs. I think Ryerson's charter was amended without touching the Robarts policy. They were viewed as a necessary exception because they were an existing institution, not a new institution. I think we would make a similar argument that we are an existing institution, rather than a new institution, and so in a similar way to Ryerson, should have our charter amended, which doesn't abrogate the Robarts policy.

Maybe I can put it in a different way. We received our charter in 1980, which was before the restrictions were brought in in 1984. So in that sense it's fair that we be grandfathered in, as it were.

Mr Caplan: I'm comfortable with that. I just have one final comment and maybe it's a question as well. Does this open the door really to a variety of these kinds of arrangements, degree-granting capabilities for other types

of post-secondary institutions, both public and private, across Ontario?

Maybe I can delve a little bit further into that. My concern is that if it does, once that door is open, I don't know if you'll ever be able to get that closed and what kind of policy that is going to make in Ontario. So please give me some assurance, Dr Cooper or the parliamentary assistant, if you will, that there is still some control, if you will, on behalf of the Minister of Education to keep that door firmly established.

Dr Cooper: I can certainly say that the kind of question you're raising is also one that was raised in our discussions with representatives of the COU. In that context, they and we came to the conclusion that we are a unique case, based on the fact that we already have a charter, that we are already degree-granting, that we are an existing institution, that we're a member of the AUCC, and also we have passed a rigorous academic assessment by a peer review panel. My understanding is that this is being dealt with as an exceptional case.

I can't speak to government policy, but I certainly can tell you what it is that I've been hearing as we've talked to people in the ministry, as we've talked to people at COU. The sense was that this will not open the door, that this is a unique, special case.

1030

Mr Hardeman: I echo the comments just made, that in fact it is a unique situation. I point out that with support from the council of universities and all others involved, they too realize this is a unique situation.

I would also point out that from the government's perspective, this is not changing the programming at Redeemer College. This is just to change the end result of that programming. I think through the peer committee review they have come to the conclusion that Redeemer College is providing the program that would warrant the awarding of the degree that's being asked for. This just allows them to award it the same as any other institution providing exactly the same quality of program. The review process that is in place and that is being put in place, I think, will ensure that the world would recognize that degree, or could recognize that degree, with the degree of confidence required in the future. I think that's why we see it as a unique situation and not necessarily opening the door to every program that's presently being provided as a certificate, that that would automatically be eligible to have a degree.

Mr Caplan: I hear the parliamentary assistant and Dr Cooper, and I will be supportive of this. I do have the caution, and it is my most fervent hope, that the words of the parliamentary assistant and of the government are that in fact there is sufficient control, if you will, in this instance. These things often take on a life of their own, but if that is the position of the government, I can certainly buy that. As I say, I will be supporting the application.

Mr Tony Ruprecht (Parkdale): I'm looking at the list of your graduates and where they've been accepted and it's really quite impressive. This really speaks for itself. We've heard some other applications some time in the past and I've always thought you're actually doing us a favour in Ontario. It's probably too bad that you've had to go through this long and delayed process. My first question is, how long has it taken you to arrive at this, from the first time you approached a ministry to receive degree-granting status? How long has that process taken you, and how much do you think it has cost you to arrive at this point where you see light at the end of the tunnel?

Dr Cooper: Thank you for the opportunity to share that. We began the process in 1985 and we submitted briefs to the —

Mr Shea: On a point of order, Mr Chairman: Did I hear "1985"?

Dr Cooper: Correct; 13 years.

Mr Shea: I understood the significance of that date.

Dr Cooper: I don't know what it has cost us in terms of time and money, but we have submitted briefs to governments represented by all three parties in this room, to quite a string of education ministers. We made submissions to a hearing from the Ontario Council on University Affairs in 1989. We made another submission to the Smith commission hearing in October 1996. We are pleased that we finally now are at this point.

We understand, I would also submit, that it takes time to build an academic reputation. Our first graduates were in 1986, so in a sense it's taken us 10 to 12 years to build up the reputation. In academic time, that's understandable, I think. At the same time, it has felt like this has taken a long time.

Mr Ruprecht: So there's no dollar figure attached to it. If my memory serves me correctly, I don't remember having sat on any committee that discussed this matter when we, as Liberals, were in office.

Mr Shea: If I were you, I'd run away.

Mr Ruprecht: It was probably only the NDP or the Conservatives.

Mr Shea: I'd take this to a vote if I were you, Mr Ruprecht. I'd run away from it.

Mr Hardeman: The Liberals didn't get this far.

Mr Ruprecht: Having said that, I want to congratulate you. Good luck and God speed.

The Chair: The next question will be from Mr Christopherson.

Mr David Christopherson (Hamilton Centre): It's not a question, just a statement.

Welcome again, Dr Cooper. It's good to see you. I appreciate the fact that you took time to go around and meet with all of us as local members. You had the former education minister, Dr Richard Allen, with you when you and I met and, of course, I took this to our caucus and we were unanimously supportive of the bill.

To that extent, I also want to compliment my colleague Toni Skarica. We will continue, I'm sure forever, to disagree on some basic philosophical and fundamental issues, but in the spirit and tradition of our community, when it's a local issue that shouldn't have any controversy around it, we've always tried to pull together to offer as much support as we can for our community regardless of our partisan affiliation. This is one of those cases. In this

regard, as in others, Toni has done an excellent job of representing his constituents and I'm very pleased to be here to offer the support of my party.

I would just mention, too, so that it is on the record, that as a former regional councillor myself, I certainly recognize the importance of Redeemer College to our overall larger community, the regional community we're all a part of. This college will now, if you will, join on a more equal footing the excellent reputation that Mohawk College and McMaster University have.

It also feeds very much into the diversification of our local economy. We are, of course, one of the larger industrial centres of Canada. It's been important for us to diversify over the last 10 or 15 years, and education and being a centre of excellence in the area of education has been a key component of that, extending all the way to our teaching hospitals, those of them that are still left. Clearly, this is an important part of that building process and the fact, as has been pointed out, that this is not precedent-setting at all, which was also our concern — were we opening any doors here that we would regret down the road? That's not the case.

Clearly, this is the right thing to do, both for Redeemer College and for our larger community. I'm very pleased to be here to offer my personal support and that of my caucus colleagues, both to the college and to my colleague Toni Skarica in his endeavours regarding Bill 17.

Mr Hardeman: I want to echo Mr Christopherson's comments about the quality and the programming provided at Redeemer College. Though the college is not in my community, many people from my community go to Redeemer College. I represent a large, shall we say, ethnic community of a certain denomination in Europe and a lot of those tend to go for education at Redeemer College. We've had a considerable involvement with those and we appreciate the program provided.

I also want to comment a little bit on the length of the process, which was brought up by a previous spokesperson, that it has taken this long. I don't support that it should take that long, but it does point out that this was not a quick decision, that it was not all of sudden something the college asked for and was given. They have done a lot of work and a lot of study has been done to make sure that the world, when they see the degree that is presented through the college, has faith that it is a good-quality degree that they expect to get. I appreciate that it was too long, but I suggest that if it were only months instead of years, it might not be long enough, that there would not be enough information there to make a good decision.

Having said that, we spoke about the uniqueness of this application, that it is the only college that way. I want to point out for the committee's purposes the note we got from legislative research, that in fact this is a unique situation. This will be the first time that the government has granted this authority to a religious college. In the past the degrees have all been related to the religious instruction as opposed to general degrees. For the record, I want to point out that, through legislative research, that was information that was found. I think everyone should be aware that it is, if not a precedent to follow, a precedent decision that is being made, even though it may not be precedent-setting for others to follow. It is a unique bill before us. I just want to make sure that we, as a committee, are all aware of that.

The Chair: Are the members of the committee ready to vote?

We're voting on Bill Pr17, An Act respecting Redeemer Reformed Christian College, sponsored by MPP Skarica. I'm also anticipating a motion at the end of this process. In keeping with tradition, I wish to collapse several sections to facilitate voting. I am not aware of any amendments to any of the sections, so what I wish to do is to combine section 1 right through to section 14.

Shall sections 1 through 14 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Mr Dave Boushy (Sarnia): I move that the fees and actual costs of printing at all stages and in the annual statutes be remitted on Bill Pr17, An Act respecting Redeemer Reformed Christian College.

The Chair: All in favour? Carried.

I wish to thank the applicants.

Mr Caplan: Who moved all that?

Mr Shea: I did.

Mr Caplan: You did? I was just curious. I thought that Mr Christopherson, if he was subbed into the committee, would want to do that given that he's a member in the area.

Mr Christopherson: It's not my regular standing committee. We're okay with this process.

Mr Shea: I would be not averse at all.

Mr Christopherson: I appreciate that, but I believe I would have had to have a sub slip in. Knowing it wasn't going to be a divided vote, I wanted to be here to offer my moral support. But if one of you guys is going to get funny about this, I'll rush out and get one.

Mr Shea: If Mr Caplan's more exercised about it, we might help him if we put all the costs on his Legislative Assembly budget.

Mr Caplan: Just trying to help.

Mr Christopherson: I'll second that motion.

Mr Shea: All in favour? Carried. Thank you.

Mr Skarica: I'd like to thank all the members of the committee and all the parties involved. I can't tell you the sense of excitement that exists at Redeemer College at the present time. You've all contributed to that. I want to personally thank everyone for their kind comments to me personally, especially Mr Christopherson. He's said on a number of occasions — it may even hurt my re-election chances, I don't know. But he's always been very kind to me from the very beginning. I consider him to be a good friend.

The Chair: I declare that order of business closed. I wish to thank all parties. I remind members we have some work to do next week.

The committee adjourned at 1043.

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 24 June 1998

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI PRIVÉS

Mercredi 24 juin 1998

The committee met at 1007 in committee room 1.

The Chair (Toby Barrett): Good morning, everyone, and welcome to this regular meeting of the standing committee on regulations and private bills for Wednesday, June 24, 1998. You have an agenda and a number of attachments before you. We are considering three private bills today: Pr18, Pr19 and Pr21. We have them in order on the agenda. It has been suggested that the third item on our agenda, Bill Pr21, be moved up to the second item on the agenda. We would reverse agenda item 2 and agenda item 3 if everyone is amenable to that suggestion.

EASTERN PENTECOSTAL BIBLE COLLEGE ACT, 1998

Consideration of Bill Pr18, An Act respecting Eastern Pentecostal Bible College.

The Chair: At this point we deal with the first item on the agenda, Bill Pr18, An Act respecting Eastern Pentecostal Bible College, sponsored by Gary Stewart, MPP for Peterborough. The applicants are at the table and I would ask Mr Stewart for a brief word of introduction.

Mr R. Gary Stewart (Peterborough): Thank you, Mr Chairman. Good morning, committee members. It is and was my privilege to present, on behalf of the Eastern Pentecostal Bible College, Bill Pr18. With me this morning is Rev David Boyd. Rev Boyd is the academic dean of the bible college. Also with me is Mary Ruth O'Brien, solicitor for the college. I will turn it over to Rev Boyd to discuss and make his presentation on the bill.

Rev David Boyd: First of all I'd like to thank the committee, Mr Chairman, for hearing us before your summer recess.

Eastern Pentecostal Bible College is 59 years old. It is the oldest post-secondary institution in the city of Peterborough. We are privately funded with a full-time enrolment equivalent of about 500 students, with over 1,300 students by correspondence. We are the largest theological institution offering courses on the Internet and by distance education at this time, that we know of, anywhere in North America. Our school is fully accredited by an international accrediting agency and we are the second-largest undergraduate theological school in the country.

I just wanted to thank you for considering some of the changes to our board of governors and the administrative structures as well as the opportunity for adding some other degrees to our list of offerings. Thank you very much.

The Chair: Thank you. Any comments at this time?

Ms Mary Ruth O'Brien: I thought I could just briefly outline the kinds of changes this amending bill is proposing. First of all, a slight change not actually in the membership of the board of governors of the college, but really a clarification of the ex officio officers and how the board can fill the vacant position. There is also a clarification of the term of non-ex officio governors. There's a slight change in the administrative structure in that the former administrative board will now be the executive committee and the members of the executive committee are further clarified. Those are really more or less housekeeping items.

The substantial change that is proposed is the addition of some degree-granting powers. With the exception of one item, which I'm going to refer to in just a second, all additional degrees have been submitted to the Ministry of Education offices and have been approved. They are all of a religious nature. Through inadvertence, one degree was omitted. I just learned of that this morning. I will be requesting, if someone can make an amendment on our behalf with respect to the bill, to add a master's degree in cross-cultural studies in ministry. Ministry of Education officials have approved a bachelor's in that same field as well as a doctoral in that same field. The master's just got left out in the typing process.

Mr Fleischer from the ministry office I believe was expected to attend. I haven't had a chance to check that out with him, but that is the kind of amendment we're looking for.

The Chair: I would ask, are there any interested parties that wish to speak to this bill? Seeing none, we now go to the parliamentary assistant of municipal affairs, MPP Ernie Hardeman, for comments from the government.

Mr Ernie Hardeman (Oxford): Thank you very much for the presentation. As the presenters made note, the main issue in the bill is the degree-granting authorities, and the Ministry of Education has been involved and has agreed that those that are listed in here are appropriate. As was mentioned, we are waiting for a representative from the ministry to be here to look at and make sure the committee is aware of the situation with the amendment that is coming forward. It would appear to be, and as was mentioned, just an oversight in printing. The ministry will be over to confirm that as we speak. The government has absolutely no concerns beyond that with the bill.

The Chair: I now call for questions from the committee to either the applicants or our parliamentary assistant, beginning with Mr Shea.

Mr Derwyn Shea (High Park-Swansea): My understanding is that the Ministry of Education and Training is present in the room. Chairman, would you confirm that?

The Chair: Is the ministry here?

Interjection: Just looking over the amendment.

Mr Shea: I would think it astonishing that we would approve a bachelor's and a doctor's level but not the master's. The solicitor's point is well taken. It's just been an oversight. Can I have confirmation of that?

Interjection.

The Chair: Excuse me, sir, I'll ask you to approach the microphone and we can record this for Hansard.

Mr Jay Fleischer: My name is Jay Fleischer. I'm with the universities branch of the Ministry of Education and Training. In discussions with the solicitor for the college, the three levels of cross-cultural studies in ministry were approved — ie, the bachelor, master's and doctorate levels. Therefore, a change does not appear to be problematic.

Mr Shea: Okay. A further question while you're still at the microphone: The ministry gave consideration of the granting of degrees not only with in-class studies but also through distance programs?

Mr Fleischer: The ministry considered specific degree designations rather than the mode in which they are going to be delivered.

Mr Shea: Thank you. I understand the answer. No other questions, but I want to continue first of all to assist the applicant and to thank Mr Stewart for his presentation before the committee. I will move the amendment that the master's degree be included in the listing.

A question if I can, please, to the deputant. I'm interested in the doctoral level for a moment. I'd like you to focus upon the — you're doing the DMin, the DTh and the DD. That's what you're suggesting you're going to offer. Am I correct in that? The DD increasingly seem to be offered more for honoris causa. I wonder, do I assume that you will be granting degrees in honoris causa or will they all be earned?

Rev Boyd: At the present time, the academic council of our institution has refused to offer any degrees honoris causa. The degree is there in case that should change. If we were to do that, there are regulations that the accrediting agencies use to follow for that type of thing.

Mr Shea: Who is your accrediting agency?

Rev Boyd: The Accrediting Association of Bible Colleges for Canada and the US. It is a group that is itself accredited by the Council for Higher Education Accreditation, which is recognized by the US Department of Education.

Mr Shea: Your DMin would still be seen as the more practicum degree?

Rev Boyd: That's correct.

Mr Shea: The DTh is somewhere between that and the DD? Or is it seen as more credible?

Rev Boyd: No. The DTh is the theological equivalent of a PhD.

Mr Shea: I know; I understand —

Rev Boyd: It's much more theoretical.

Mr Shea: It's much more thesis oriented. Is there a thesis required with a DMin?

Rev Boyd: There would be a project.

Mr Shea: What about the DD?

Rev Boyd: The DD is not going to be offered in the foreseeable future.

Mr Shea: Is there some reason why you're asking for it? What's your anticipation of that?

Rev Boyd: The reason it was put there was that if we decided to offer any degrees for honoris causa, it would be there for us to do so without having to come back to the Legislature.

Mr Shea: I have no further questions except to say that I certainly appreciate the presentation, understand the nature of the request and I have, obviously by moving the amendment, no difficulty supporting the application.

The Chair: Thank you, Mr Shea. If you wish to make a motion, we will wait until clause-by-clause.

Mr Shea: If you would be good enough just to consider that having been tabled for the information of the committee.

The Chair: Thank you. Any further questions to the applicants?

Mr John Gerretsen (Kingston and The Islands): I'm more interested in the question with respect to the membership on the board and how you want to deviate or give it a broader status from a citizen's viewpoint. Could you give us a little bit of background on that?

Rev Boyd: There would be a number of reasons for that. One is that our college covers a constituency of churches from Thunder Bay to St John's, Newfoundland. Within our denominational structure, that also includes Bermuda. We have churches, students and representation from Bermuda. One of the reasons would be to allow Bermuda in, so we're not Canadian citizens. The other is that as we are trying to maintain openness to the various cultural realities in our own country, there may be people who have landed-immigrant status who wouldn't have qualified before, not being citizens of Canada. It opens it up for them.

Mr Gerretsen: What do you propose, then? I understand your board of directors will be composed of no more than 24 people. Would there be no more than X number who would not be citizens of Ontario? Are you proposing anything along that line?

Rev Boyd: As far as citizens of Ontario, we have the majority just by the structure of our denomination. Citizenship of Canada or permanent residency must be at least 50% of the board of governors. About one quarter to one third of the governors are from outside the province of Ontario, meaning Newfoundland, the other maritime provinces and the province of Quebec.

Mr Gerretsen: And you expect that ratio to be the same in the foreseeable future?

Rev Boyd: Yes. According to the structure that's put here, it has to stay pretty well that.

The Chair: Any further questions?

Mr Tony Martin (Sault Ste Marie): You might just lay out for me what degrees you're able to grant now and which ones are the new ones.

1020

Rev Boyd: At the present time, we are only granting first-level degrees, bachelor's degrees. The additions, especially the cross-cultural studies in ministry, are new designations that we felt were important, considering the fact that a number of our graduates are going into closed-access countries and something that says "theology" in big letters is not necessarily appreciated.

We are looking at expanding to the master's and doctorate level over a period of time. We're not going to jump to that at once, but our long-term planning is looking to add those degrees.

Mr Martin: The bachelor's degrees that you offer are the ones listed here?

Rev Boyd: Yes. In fact, the bachelor of ministry degree is little used, but the bachelor of theology is our primary degree. I'd say about 80% to 90% of all bachelor's degrees would be the bachelor of theology, followed by the bachelor of religious education.

Mr Shea: I gather that your master's and doctoral levels will also be offered at distance?

Rev Boyd: At the present time, we wouldn't start there. We would start with on-campus and follow a fairly normal format. However, with the demands on education, I could see the master's degree moving to that within five years.

Mr Shea: Is your bachelor's degree currently offered totally at distance?

Rev Boyd: It is in the third year of offering at distance, so we have no one who has graduated from that yet. Our distance education is offered in two forms. One is through setting up regional centres. In Ontario we have them in Mississauga, Waterloo, London; Chatham is opening in September, and Agincourt is also opening. In those particular contexts, 25% of the teaching is done by locally appointed, part-time faculty, who meet the normal criteria. Another 25% is offered through our own faculty, who either travel to the location or offer a course through video-conferencing. The other 50% is offered through courses on the Internet.

Mr Shea: Do you expect that same ratio to continue for a master's degree?

Rev Boyd: I believe so. One of the challenges we face is that the accrediting associations are running to catch up with the new technology. Some of the rules have not been firmly established yet, but we will be abiding by whatever those regulations will be.

The Chair: Are there any further questions? Are the members ready to vote? We're voting on Bill Pr18, An Act respecting Eastern Pentecostal Bible College, sponsored by MPP Stewart. I'll go through this section by section. I understand there is a motion concerning section 2.

Shall section 1 carry? Carried.

With respect to section 2, are there any amendments?

Mr Shea: If I can read the writing here, I move that clause 7(j) of the act, as set out in section 2 of the bill, be amended by inserting "master of cross-cultural studies in ministry" after "bachelor of cross-cultural studies in ministry" in the fifth and sixth lines.

The Chair: All in favour of this amendment? I declare this amendment carried.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

I wish to thank the parties. I declare the first order of business closed.

CANADIAN INFORMATION PROCESSING SOCIETY OF ONTARIO ACT, 1998

Consideration of Bill Pr21, An Act respecting Canadian Information Processing Society of Ontario.

The Chair: We'll continue with our next order of business. As I have indicated, I understand that both parties are amenable to reverse the order of items 2 and 3 on our agenda. This means that at this time we will be dealing with the third item on our agenda, Bill Pr21, An Act respecting Canadian Information Processing Society of Ontario. The sponsor for this bill, filling in for Bill Saunderson, is MPP Jack Carroll, Chatham-Kent. I would ask Mr Carroll for some introductory remarks and then we would ask the applicants to introduce themselves.

Mr Jack Carroll (Chatham-Kent): I'm happy to be here this morning on behalf of Bill Saunderson to introduce the representatives of the Canadian Information Processing Society of Ontario and Bill Pr21. We have three representatives from the society, plus two of their counsel members sitting in the audience. We have the president, Bill Ross, the vice-president, George Hammond, and a member of the board of directors, Rick Penton, sitting with me at the table. David McFadden, a partner in Smith Lyons, and Neil Guthrie, an associate at Smith Lyons, who are counsel to the Canadian Information Processing Society, are in the audience, should they be required.

At this point in time, I'd like to turn the microphone over to Mr Ross, the president, for opening comments.

Mr William Ross: Mr Chairman, honourable members of the committee, we're here today to ask your support in the passage of An Act respecting the Canadian Information Processing Society, CIPS for short. I'd like to tell you a little bit about who we are, why we're here and why we feel this act is significant.

During the Second World War a great deal of highly secret research was taking place into the development of computing machines that could be used to crack enemy codes. Although Britain, the US and Canada funded the

research as part of the war effort, most of it took place in universities because computing was the domain of mathematicians. These computing devices, with names like ENIAC, were the machines that in a few short decades evolved into the electronic computers that now play such a central role in all our lives.

At the University of Toronto, just out the window here, a young professor of mathematics by the name of Calvin C. Gotlieb, Kelly to his family and friends, was part of this research. In the years following the war, computing technology advanced rapidly from gears to electromechanical relays to vacuum tubes, and Kelly Gotlieb decided that Canada needed an association where people who were part of this computer revolution could meet and exchange ideas. So in 1958, with the support of colleagues at other universities, he founded the organization that is now called the Canadian Information Processing Society. CIPS' national office is here in Toronto and this year marks our 40th anniversary. Although Kelly Gotlieb has long since retired, he remains a highly respected source from whom we still seek advice and support.

CIPS has always been in the forefront of information technology in Canada. In 1970, we established the accreditation council to accredit university information technology programs and to provide guidance to university faculties regarding their curricula. Today, CIPS-accredited programs are offered at universities across Canada, including such Ontario institutions as Waterloo, Western, McMaster, Carleton, York and the University of Ottawa.

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Over the years, CIPS has grown from a small dedicated band of academics to more than 7,500 members from coast to coast, about 2,000 of whom live in Ontario. As the society grew, we recognized the need to distinguish a special group of people in the information technology field, people who are committed to reaching and maintaining a high level of education, experience and professionalism. In 1989, after two years of planning and preparation, CIPS granted the first information systems professional of Canada designation, the ISP. Today Ontario has 435 certified information technology practitioners, who make up a significant portion of the 2,000 ISPs across the country.

What kind of people have made the commitment to this sort of professionalism? All kinds, but especially people who bear a lot of responsibility for keeping information technology working and who take that responsibility very seriously. They're small business owners like Rick Penton; university registrars like George Hammond; senior managers like Hugh Kelly, ISP, vice-president of information technology at the LCBO; public servants like John Baker, ISP, director of information systems at Kingston General Hospital; health care systems providers like Peter Bailey, ISP, of Medex systems development group.

They work for organizations with names like Bell, Atomic Energy of Canada Ltd, Client Server Management, the Law Society of Upper Canada, Metropolitan Life, Deloitte and Touche, Previse Inc, Ontario Hydro, Revenue Canada, the Ministry of Natural Resources, and the RCMP.

They live in small towns and big cities all over the province: Arthur, Windsor, Toronto, Sault Ste Marie, Sudbury, Ottawa, Georgetown. They all share a common commitment to success, professionalism, ethics and the public good, and they do so voluntarily. This bill does not confer any exclusivity of practice.

The ISP designation they all hold is now recognized around the world. CIPS has agreements with the British, Australian and New Zealand computer societies, which provide for the mutual recognition of our respective professionals. CIPS was a founding member of IFIP, the International Federation of Information Processing Society. We're a member of SEARCC, the Southeast Asia Regional Computer Conference.

Besides sending a positive message to Ontario, Canada and the world about the quality of Ontario's information technology professionals and their products and services, passage of this bill will make another important difference. For the first time, it will give the citizens of Ontario a degree of protection that they have not heretofore had with regard to information technology. They will have a clear means of seeking redress if they feel they have been ill served by an information technology professional.

Mr Saunderson, the honourable member for Eglinton and sponsor of this bill, hit the nail on the head when he said: "This is about quality. It's like an ISO-9000 registration on an individual." He's right. It's about individual quality, quality of a workforce and quality of life for every citizen who's affected by information technology.

We thank you for your attention to this important matter. We would be happy now to answer any questions you may have.

The Chair: Thank you, Mr Ross. Before we go to questions, are there any interested parties? Seeing none, we now go to MPP Ernie Hardeman, parliamentary assistant, municipal affairs, for comments on the part of the government.

Mr Hardeman: We thank you for the presentation. For the committee's information, the bill was circulated to the government ministries and no negative comments or comments of any other kind were received to suggest that there was anything inappropriate that was in the bill that shouldn't be there or that it was not a good venture to be embarked upon. I personally will be supporting the bill, and I leave the rest to the committee for their decision.

The Chair: Are there any questions or comments to Mr Hardeman or to the applicants?

Mr Shea: I'm just delighted to see in our presence the distinguished former member of this Parliament, David McFadden, who has given a statutory declaration as well to the application. We've had a number of similar applications before this committee. This has been well presented and I am very pleased to support it, based upon the strong testimony also given to it by our member from Chatham, Mr Carroll.

Mr Hardeman: This is a personal question, I suppose. I was just wondering, as this is, as Mr Saunderson said,

like an ISO-9000 for individuals, what is in place to define what that standard would be? If this bill is approved and an individual has that designation, how can I be assured that the calibre of expertise coming forward is the calibre I can expect as opposed to a calibre that you as an organization have set so you can get everyone who has ever turned a computer on as part of your association?

Mr Ross: There are two answers to the question. The first has to do with the designation being granted in the first place, and the second is what's required to maintain the designation once you've got it. We have a certification council which grants the designation. We have a set of criteria that are available to the public to review. They range from a requirement for somebody to complete an accredited four-year university program and then to have two years of work experience, at which point they can then apply for the designation — it varies. Non-accredited university or college programs require more work experience. As an example, getting to the far end of the spectrum, a two-year technology program from a community college would require up to seven years' work experience before a designation would be granted. People with the designation then are required to get 100 hours per year of continuing education or study related to their professional designation.

The Chair: Do committee members have any further questions? Are the members ready to vote?

We're voting on Bill Pr21, An Act respecting Canadian Information Processing Society of Ontario. MPP Carroll is filling in for the sponsor, MPP Saunderson. In keeping with tradition and with your permission, I wish to collapse several sections for the vote.

Shall section 1 right through to section 13 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

I declare the bill passed.

I thank the applicants and declare this order of business closed.

MUNICIPALITY OF CHATHAM-KENT ACT, 1998

Consideration of Bill Pr19, An Act respecting the Municipality of Chatham-Kent.

The Chair: Our next order of business is Bill Pr19, An Act respecting the Municipality of Chatham-Kent. I see that the applicants have approached the witness table. This bill is sponsored by MPP Jack Carroll, member for Chatham-Kent. I would ask Mr Carroll for some opening remarks and subsequently we would ask the applicants to introduce themselves.

Mr Carroll: It's probably unusual that one member would get to do this twice in a row, but I have a touch more interest in this particular issue.

Mr Hardeman: You do it so well.

Mr Carroll: I'll stay here until I get it right. I trust everybody will be as easy on my friends from Chatham-Kent as they were on the last group.

The bill we're dealing with, of course, is a bill that our community of Chatham-Kent needs to finish off the significant restructuring process that has been going on that puts the wonderful community of Chatham-Kent at the forefront of municipal restructuring. There are a few little issues that need to be tidied up and they're represented in this particular bill.

With me this morning on behalf of the community is Hugh Thomas, who is the chief operating officer of the community — I probably don't even have his title right, but he was the boss on this; Brian Knott, who's the director of legal services; and Tim Dick, who's the manager of drainage services. Their counsel is Ian Lord from the firm of Weir and Foulds.

At this point, Mr Chairman, with your permission, I'll turn the microphone over to Mr Ian Lord.

Mr Ian Lord: I'll be very brief, members. Chatham-Kent does appreciate the opportunity of bringing forward private legislation to deal with certain matters that were not included in the restructuring order. Chatham-Kent was restructured effective January 1 of this year under an order of the late Dr Peter Meyboom. As you may know, it collapsed some 23 separate municipalities into one single-tier area municipality.

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Just briefly in terms of geography, the area of that municipality is something in the order of 2,500 square kilometres, approximately the size of Prince Edward Island, measuring, to go to the other system, 65 miles in length by 45 miles in width. It has some 4,000 kilometres of municipal drains, and that's the principal ingredient in the bill. It is an agricultural community in its makeup, but it's urban in the sense that 70% of the population of 110,000 is urban. But the majority of the geographic area is flat, with reliance upon municipal drain systems.

The municipality expects to administer itself through a series of service centres and has brought forward a bill that provides certain powers that had not been addressed in the Meyboom order. It has undergone an intensive evolution in the last several weeks. We've had excellent cooperation from the ministries of agriculture and food, consumer and commercial relations and municipal affairs.

The three principal areas the bill addresses include the area rating of a listed set of specified services that were not included in the order. These will provide for the municipality to continue tax equity of the municipal rural areas and further a philosophy of user-pay for services: urban users pay for urban services and rural users pay for the rural.

It also addresses a number of drainage area matters and constitutes a drainage tribunal, which will effectively take the hearing time away from council and allow that to be dealt with by an appointed committee of local people close to the municipal drains, while reserving to council the legislative function of actually implementing the recom-

mendations of the drainage tribunal. It's a very important time-saving and administrative device.

Finally, there are an additional number of miscellaneous matters that are being dealt with: setting the term on the public utilities commission and matters dealing with some road closings. They're quite modest and incidental matters.

In conclusion, the bill is needed for the issuance of tax notices for this year. The premise of the bulk of the bill is to permit the continuity of the user-pay tax equity approach to the specified listed area rating services.

If I can be of assistance, we do have a set of amendments that we support. They are more detailed than that overview.

The Chair: We can come to that in due time. Any other comments from the applicants before we continue?

On the agenda there are a number of interested parties listed. Are there any interested parties present that wish to make comment? Could you approach the microphone, please. I'll ask you to identify yourself.

Mrs Greta Thompson: My name is Greta Thompson. I'm a resident of Chatham-Kent. I have been involved in the restructuring from the very beginning, including public and private presentations and letters to Dr Meyboom. I have been involved in one of the areas the bill addresses, environmental protection, for over 30 years and have spoken to other standing committees. I have concerns about this bill and I have asked for the opportunity to present them.

First, I'd like to talk briefly about the process. The official notice in our newspaper includes exemption from the requirements of section 7 of Ontario regulation 104/94, which requires the establishment of a blue box waste management system. The six pages faxed to me at 15:02 on Friday night don't seem to have that set out clearly. I have just received a whole bunch of amendments today. Two working days' notice to prepare arguments to the bill, without even the opportunity to clarify points of reference, as requested in my letter of May 27, 1998, isn't enough notice for me to address this properly.

The legality is another concern. The provisions in the bill conflict and interfere with other acts and legal arguments, legal processes in process. They especially interfere with the EA in progress, the EPA and the EAA. In a letter directly from Al Leach to me, the concern of the interference has been repeatedly expressed. I quote Mr Leach from his letter of September 11, 1997: "The terms of reference given to the commission allowed for a comprehensive review of local government in Chatham-Kent. This authority did not allow the commission to intervene in the environmental assessment process."

I participated fully in the restructuring. The legal issues include conflicts between the Assessment Act and the Drainage Act that we have identified; process for relocating drains — and again, I would refer you to my letter of October 8 to Al Leach; and recycling — I refer you to my letter to Dr Meyboom of April 5, 1997, reference number 3. I'll just repeat that briefly:

"Dr Meyboom:

"The separation of responsibility for garbage collection from the upper-tier authority for waste management, including disposal, places the upper tier at a serious disadvantage when it comes to waste diversion strategies. Attached to a mandate to provide for waste disposal is a responsibility for waste diversion. The most effective municipal waste diversion strategies involve at-source separated recyclables and compostables, and for those strategies to work separated curbside collection streams are essential."

That was prepared with input from a trusted friend.

I also refer you to a letter to Norm Sterling on this issue, dated July 23, another letter from Andrew Wright. He was the former counsel of Kent county. It's included in the submissions. He deals at length with the recycling issue in Chatham-Kent: "The use of funds, administrative powers, conflict of interest re: the use of funds and authority for the use of funds, tax assessments of waste sites and property buffers and conditional discretionary powers are all related to legal arguments already presented but not addressed nor resolved, and are included in the EA in process."

Again, my lawyer's submission on this, dated December 16, 1997 — an at-length report typed with the help of ministry staff, May 14, 1997.

Bylaws and transfers of same remain outstanding. As late as last night, we had another letter on the issue of bylaws, a legal issue that went to the Ministry of the Environment and is part of the EA.

The letter from Mr Ng, dated December 18 — again, a legal issue.

My concerns over the conflict implications of restructuring on the EA process were submitted many times. I have not been approached by Chatham-Kent at all to address any of those issues or have input into them.

Again, there is a letter of follow-up from Andy Wright, and I've attached that as reference number 11.

The conflict of interest is set out in the host community fees — I've brought it with some of my concerns — between BFI and Chatham-Kent. I believe this agreement creates a conflict when you apply many of the provisions they're asking for in the bill. It denies Ontario equal opportunity under our laws in the area of environmental protection. Many years ago, my government tried to form a partnership with the operator for a hazardous waste disposal site in Chatham-Kent. Didn't we already win that legally in the courts? In this case it's even worse, because some clauses commit Chatham-Kent to support and not oppose BFI's operation. I assure you I'm not here today to lay blame. I have some serious concerns over how we enter the new age and how we do a better job protecting our environment.

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The use of BFI payments to my municipality and legalities of same are not just a problem for me. My council rep from south Kent told me that they are seeking a legal opinion on this and they do not have it yet. They have no idea when they will get the legal opinion from

council on the use of funds. News articles and letters in the paper express further concerns over the funds and relationship and accountability of environmental protection. As a matter of fact, I believe if you check you'll find one of these editorials was nominated for an award. Since there are legal claims coming down the pike, use of funds may predetermine the legal outcome if you apply these provisions. Again, reference my letter of August 5, 1997.

This bill will damage the environment unnecessarily and may deny most affected residents protection from the adverse impacts of landfills in Chatham-Kent, and we have more than one. As a resident, I believe administrative staff have too much power already. They do not need additional powers.

An example is the host agreement. It was drawn up behind closed doors with no opportunity for input for this most affected resident. Some residents were represented at some of these decisions and discussions. They were the residents who support the operation, the expansion and the expanded service area and who get paid by the volumes transported to Chatham-Kent. Those who opposed and received no payments, and are the most affected, were not included.

Some council members were not fully aware of the implications of the clauses in the contract. Discretionary powers of directors and decisions by municipal boards are also of great concern and again are being argued at this very time as part of the EA process.

This bill places this community at financial risks if Ridge or Gore's closes. Again, I refer you to Mr Wright's submission on the EA on how recycling could allow Chatham-Kent to use only one site if the other site closes.

Chatham-Kent only has 22,000 tonnes of garbage projected for disposal this year. Although there is great financial incentive to bring close to a million tonnes per year from long distance, including Toronto, that's not good for the environment. Why not reduce and recycle Chatham-Kent's waste by 50% and shift the only remaining 11,000 tonnes, the lesser amount, the further distance?

It's time the landfill business shared the pain of restructuring and environmental protection. There should be no incentive to make landfill a growth industry. The broad exceptions of recyclables limits opportunities to reach a satisfactory compromise. There are part compromises. Dropoff boxes might be added to the front gates of the landfill. That's only one example.

Some provisions are not needed. The municipality has the financial resources to meet some of the requirements without an exemption from waste reduction. If it's not going to address impacts in the immediate impact area or waste reduction, what's all the money being paid to the municipality for? Are those funds to buy cooperation, to buy our environment needlessly with Toronto's waste?

They're in the black ink. They have a reserve in the municipal host fees. It may set a precedent for other restructuring efforts. If Chatham-Kent is exempted, then what about St Thomas-Elgin, London-Middlesex, Sarnia-Lambton, mega-Toronto? Will exemptions or special conditions for recyclables set a precedent? We've set it many times before in waste disposal in Chatham-Kent.

If you grant it to a rich municipality, can you deny it to a poor one? Can we have a successful waste reduction program without a blue box? What are the impacts on the other reduction operations?

Do the exemption of special provisions hide the real cost of restructuring? The budget this year may be in the black, but what's the real cost? No doubt, restructuring in Chatham-Kent has been done directly on the back of environmental protection and most affected residents around landfills.

I have a list of some of the losses — I won't take your time today to read them, but they are here — that environmental protection has suffered as a result of restructuring that don't show up on the restructuring costs.

Gentlemen, along with downloading and responsibility for waste disposal comes the obligation to protect Ontario's environment and people, now and in the future. We have failed to do that in Chatham-Kent before and especially after restructuring. Waste reduction targets are not being met. Our environment and people are not being protected from landfills.

Lucrative waste, skimmed off the top and transported long distance, with payments to encourage same: These payments are not put to waste reduction nor do they address impacts in the impact area and are used for other things. This also has and will increase the cost of waste disposal for other municipalities and the viability of waste reduction efforts in other municipalities across Ontario.

When we granted an all-Ontario licence behind closed doors and broke a condition on a limited service area, we made this an all-Ontario restructuring of waste disposal issues. I am concerned some of these provisions are fast-tracked for BFI's bid for mega-Toronto's business. I have letters also supporting those concerns. One of them is from our solicitor to the minister, and the response is here.

I've heard municipalities in the past argue the need for payments for volumes and landfill because of the expense of administering a landfill and the impacts of same. But the money isn't spent on that. The legal bills and bills for administration and other benefits are usually paid on top of the per-dollar, per-tonne. These payments are used for other purposes.

When you look at these provisions and you look at the advertising for business, is there anything to prevent or protect me from the host fees being used to promote and advertise Chatham-Kent as all Ontario's dump for Toronto's and all Ontario's garbage? Is that possible with this provision?

I know my words are strong. They represent only a few of my concerns over this bill. I haven't had enough time to go into it at length. Only a few of my documents are referenced; we have boxes of them. But I assure you I am not here to lay blame. I am here as a victim of restructuring. It's nice to see the dollars and the black ink, but remember the victims. Some of them are not here today to let you know about the victims, especially the silent one: environmental protection.

There are some things you can only learn from the day-to-day reality of life in a dump. I realize that our administrative staff in Chatham-Kent have met impossible expectations on their time. I've seen the fatigue in their eyes when they are at meetings. That's why I am here.

The things I've learned over 30 years of addressing and being involved in environmental issues — I am here to help my municipality, Ontario and you as a committee to avoid past mistakes, to take all of Ontario's environment and people safely into the new restructured age.

When the condition in our approved C of A for a limited service area was broken and an all-Ontario licence issued, it became an all-Ontario issue — behind closed doors, over our objections, without even any hearings, without an opportunity to present or address our concerns.

We lost the value of any EA process, the C of A and conditions, environmental protection efforts. We need to protect Ontario's environment and people from the potential environmental atrocities in the restructured municipalities in Ontario now and in the future.

To do that, I would suggest the following. I don't mean to be presumptuous. I feel that along with the problems I should present some thoughts of how they may be solved. Remove any recycling exemptions or amendments or references to same from this bill and exempt all waste disposal decisions and funding, including all waste disposal reduction operations and funding, from the provisions of this bill entirely. In other words, the provisions of this bill should not apply to anything in the waste disposal and waste reduction areas.

This is something I came particularly to present. In our discussions alone with Dr Meyboom he referenced something like a commission when I was presenting my concerns. So item (b) to my suggestion would be: Establish an independent board or commission, with members to be elected and terms of reference to include authority to exercise council powers otherwise within the authority of council under the Municipal Act, EPA, EAA etc, for all waste disposal reduction services, budgets and funding.

1100

No man can serve two masters. It is unreasonable to expect our council to make needed environmental decisions when they are getting money and incentives directly and are bound to cooperate to damage the same.

That the former Kent county counsel, with his expertise and long history and experience in Chatham-Kent's waste disposal issues, be retained to serve the legal needs of the board and the commissioner.

I believe some of this could have been addressed and resolved before it came to you had he been there as our line of communication. We simply cannot lose the experience and the long-term knowledge that he has gained. We can't start over again; it's too expensive.

The other option would be to reject this bill outright. The third one could be to table this bill until the EA process, the court interventions or appeals have been decided in the areas that relate to many of the provisions in this bill. We can turn this province's worst-polluter status around or add to it by the decisions we make in our own backyard every day.

If a landfill had not moved into my backyard over my objections more than 30 years ago, and expanded to an all-Ontario mega-dump over the years, I would not be here to present this to you, to tell you all the things I've been forced to learn from it. I would not be thinking about the things I'm thinking about today if it were not for that.

I thank you for your time. I thank Mr Thomas and Chatham-Kent staff especially. I realize you're doing the best you can under the circumstances.

The Chair: Thank you, Mrs Thompson, for your submission. If you could return to your chair. Can you remain, if there are any questions when we come to that section of the agenda?

Are there any other interested parties that wish to approach the microphone?

Mr Carroll, could you return to the table.

At this point on the agenda I would now ask MPP Ernie Hardeman, parliamentary assistant, municipal affairs, for comments from the government.

Mr Hardeman: Good morning, gentlemen and Mrs Thompson. As was mentioned in the presentation of the bill, it's a bill that comes out of the concerns that have arisen as the Chatham-Kent restructuring is being implemented. As Mr Meyboom did the restructuring order, there were some things that were left somewhat general. As the implementation people started to work they realized there were some areas that were not going to operate as effectively and efficiently as the people would like, so they've come forward with this bill to address some of those concerns.

First of all, I want to say that I appreciate the presentation. As it relates to the Environmental Protection Act, I would suggest my understanding — and maybe Mr Thomas from the city of Chatham-Kent could enlighten me — is that it is as Mr Leach said in his letter, that the Environmental Protection Act applies to the new city of Chatham-Kent as it would have applied to the lower-tier and the upper-tier municipalities in the past. There are no exemptions being granted in the bill as it presently stands.

As we look at some of the other concerns that were put forward by Mrs Thompson, I would suggest that we will have a number of amendments to deal with some of those concerns. As the bill was reviewed in the last short period of time, with all the ministries and the city of Chatham-Kent involved, a number of those same concerns that you have addressed were pointed out in the bill. There will be a number of amendments coming forward as we deal with this bill this morning that I will be introducing, open for committee debate. Committee can make their judgement calls on whether those amendments will deal sufficiently with some of the concerns that were expressed.

With that, the government is generally supportive of the bill, provided that the committee deals with the amendments in the fashion that would look after the concerns that were raised by the Ministry of Agriculture, Food and Rural Affairs as it related to the drainage part, and some

of the other areas that the Ministry of Municipal Affairs had some concerns with.

For the committee's purposes, I would say that the concerns that came out of the debate arose from the fact that Chatham-Kent put forward the proposals based on how best to deal with their concerns that in some areas in fact they were going beyond what other municipalities in similar circumstances could and would be able to do. The amendments will hopefully try to address that. It deals with the needs of the new city of Chatham-Kent, but at the same time they are also still bound by and have to adhere to the same type of rules and regulations that other municipalities are guided by. That will hopefully address a lot of the concerns that were raised in the presentation previously.

With that, I'm quite prepared to answer questions as they relate to the amendments that the government will be putting forward. I would end my comments there and we'll address them. Maybe, Mr Chair, I could ask Mr Thomas from Chatham-Kent to address the environmental issues that were raised.

The Chair: Yes.

Mr Hugh Thomas: Mr Hardeman, you are quite correct. The same rules that apply to Ontario apply to Chatham-Kent. As a matter of interest, there was a provision in the draft bill to exempt areas that had not received blue box from the provision of the blue box legislation. Recognizing that there are large portions of farm communities that do not have blue box, we didn't want to impose that charge. It's since been pointed out to us that there are existing provisions in existing legislation to deal with that matter and therefore it has been removed from the bill.

The Chair: We now go to questions, questions to the parliamentary assistant, to the applicants or interested parties.

Mr Gerretsen: I have a number of questions just to get it straight in my own mind. We've been given a series of amendments. Whose amendments are these? Are these the ministry's amendments? Are they the applicant's amendments? Are they in order to deal with Mrs Thompson's objections? Where did this come from, this package of about 20 amendments?

The Chair: Who is best to answer that question?

Mr Lord: Over the last several weeks, with the four ministries principally, we have been discussing an initial draft of a bill that was forwarded by Chatham-Kent to the legislative counsel. Through that period of discussion we have looked at public legislation and, in some cases, decided that the public legislation adequately addressed the issue the municipality would have sought. Several of the amendments include advice to you that the applicant is recommending voting against the original draft. It's an evolutionary process.

All of the amendments that the member speaks to are supported by the municipality as a result of a consultative process that has taken place over the past several weeks.

Mr Gerretsen: So the municipality is putting these forward?

Mr Lord: Yes, we are, and supporting them.

Mr Gerretsen: Then, if I could ask a question of Mrs Thompson at this stage.

The Chair: Mrs Thompson, would you approach the microphone again, please.

Mr Gerretsen: I understand that you went through quite a bit of history of your involvement in this. I think you should appreciate that I as a member of the committee, and I dare not speak for the other members of the committee, really don't know that much about the local situation, other than the restructuring process that went through over the last year or two.

As far as your concerns are related, do I take it that you have mainly an objection with respect to paragraph 2 of subsection 2(1) whereby in effect the council can get different rates established for refuse collection, recycling and disposal? Is that what you're —

Mrs Thompson: No, sir. There are many areas. You have to remember that the only two pieces of information I have received to date is the official notice in the paper and the bill, the six pages that were faxed to me Friday night, which conflict with the official notice in the paper.

I have not had the opportunity to investigate it or address it. I don't know how what I'm saying will be impacted by the amendments you just got. Nothing that I have said is reflected in any of the documents to date. My presentation to you is the only thing I've done.

1110

There are other provisions in the bill, legal implications, as it relates to the impact on the EA in process. We have an environmental assessment that is down the tubes. It was with the EA department. I understand it's now somewhere in the minister's office waiting for a decision. But a lot of the issues and the provisions this bill is addressing may predetermine the outcome of our concerns. I don't believe, even if it goes to a board, a board can interfere with another act. We have some legal concerns. We would like the environmental assessment process to be allowed to handle those concerns, then, through the appeals or the courts or whatever, because when it comes to many of those provisions — use of funds, authority of administrative staff — a lot of those things are directly related to issues that we have presented and suggestions and recommendations we've made in that regard. Am I making it clear?

Mr Gerretsen: Yes, you're making it clear. I have a question, then, of Mr Hardeman. Do you agree with that, that basically this act only deals with restructuring and does not in any way, shape or form deal with any of the environmental matters?

Mr Hardeman: Our position would be that in fact the Environmental Protection Act applies to the new city of Chatham-Kent in exactly the same way it applied to the lower-tier and upper-tier municipalities jointly prior to the restructuring. The present act deals with procedural matters particularly. I think Mrs Thompson mentioned the issue of farm drainage. I can assure her that has been a major item of discussion that we've had to address in the last number of days with the Ministry of Agriculture, Food

and Rural Affairs and the Ministry of Municipal Affairs, as to how that process could be implemented to make sure that the principles of the Drainage Act apply, again, in the same way in Chatham-Kent, even though it's a single-tier municipality, as they presently apply.

Mr Gerretsen: Those amendments are here. We'll be dealing with them.

Mr Hardeman: Yes, we will be dealing with those amendments. In my understanding of the bill, there are no situations where this bill would in any way override the requirements under the Environmental Protection Act or direct the environmental appeals tribunal to rule in any way because of what's in this bill. I guess the concern is that somehow what happens in this bill may predetermine an environmental assessment decision, and my understanding is that there would be nothing in this bill that would do that.

Mr Gerretsen: Could I ask for Mrs Thompson's response to that? Does she want to say something?

Mrs Thompson: There are some legal issues of concern. I'll make it simple in regard to the drainage, for example. We went through drainage around the site. The drains are the boundaries of the landfill. We've already gone through one conflict between the Drainage Act and the process and the EA, where the drain was moved and the additional agricultural land acquired by moving that drain was then used for ancillary purposes of the site. Our first level of appeal, our first approach, would be to the municipality, the council members and the council that received the funds from the expansion, a council that is committed to support and not oppose in some cases. We have already raised issues such as this before the board, legal issues between conflicts of acts.

If you approve this, what happens when the Howard drain, for instance, which is a new boundary, is proposed to be relocated before the EA decision comes in? What process do we use? It's making some very difficult legal matters for us. An issue that's already a legal matter is compounded by these special provisions.

Another one is the use of funding. Our own council is seeking legal counsel themselves on how they can use those funds. There's a real conflict and it's being hotly contested, such as use of the host fee funds for restructuring instead of environmental protection and adverse impacts. There are some legal issues. The council themselves don't have the answer yet. But this provision provides for some authority in spending funds. I understand the Environmental Protection Act applies to the new municipality; it's those legal and environmental issues that are in the pipes, in the EA process in progress.

This provision will also add to our cost of having to look back at all those provisions and see how they apply to what we've presented. The time frame for presenting those concerns has passed, the deadline is cut off. We don't have that opportunity any more. So we may be looking at a whole bunch of new concerns as far as the environmental assessment goes, but the time frame for presenting them has passed.

Mr Hardeman: Not to further the debate on the issue, I would just point out that the relationship between the concern expressed about the Drainage Act and the Environmental Protection Act as it relates to a landfill site or any other works within the municipality, the ramifications of that presently have been changed. The proponent, or the governance of the Drainage Act, is presently the city of Chatham-Kent; previously, before restructuring, of course it would have been the local municipality in that area. But the restructuring of Chatham-Kent changed the relationship. The opponent, or the people who have the concerns, are addressing it to the new city.

The proposals that are before us in this bill are strictly of how the city of Chatham-Kent wants to administer the function of drainage repairs and so forth. There will be an amendment coming forward that deals with the issue of them being allowed to give their full authority to an appointed board, that they would recognize that they will not be doing that, that in fact the board will be set up to work on behalf of council to get this information.

Regarding your concerns as they relate to the legalities of who the proponent and the opponent in a dispute around the landfill site would be, as it relates to the Drainage Act, they will not change in any way in this act.

Mrs Thompson: You have mentioned the municipality's authority to simply move them over to Chatham-Kent. I think you've missed that with the former municipality we had two levels in these legal and conflict-resolution matters. We had a local municipality that was receiving funding from the operation it was deciding on. We had the protection of the county level, which was independent, not receiving any money, to approach if there was a conflict. We've lost that whole independent level. We go directly with these provisions to the municipality that receives the funding.

Mr Hardeman: Again, not to debate the issue, I would suggest that the change of when you had two municipalities and when you now have one was done January 1 under the restructuring order. There is nothing in this bill that is before the committee today that would in any way change the relationship between the proponents in this instance as it relates to the Environmental Protection Act and the Drainage Act. How that will be ironed out will be the same before this bill as it will be after this bill if it's approved, save and except for those items you mentioned about the actual granting of authority of municipalities to the drainage board. There is an amendment coming forward to eliminate the ability to do that, to actually give someone else authority. I think in that way your concerns will be addressed in this bill.

The Chair: I had a question from Mr Boushy and then Mr Martin.

Mr Dave Boushy (Sarnia): First of all, I really believe in giving a municipality control over a lot of things. However, I was really disturbed by section 5 initially, giving complete control without any hearing or without having Ontario Municipal Board interference.

But the new section 5 of the bill still is not clear to me. There's a lot of legal arguing around that section. Does it

give you the full authority without — for example, subsection 5(1), "The approval of a full Ontario Municipal Board is not required for a bylaw." Then, "(a) The Ontario Municipal Board has a procedure in place...." It doesn't request the Ontario Municipal Board to give notice. If they do, then that's fine. But if they don't, then immediately the bylaw passed by the council takes over the next day. The council does not ask the municipal board to give any hearings. Am I right?

1120

Mr Lord: The way we had originally proposed that section would have removed the requirement of the approval of the Ontario Municipal Board. But after discussions with the ministry, we have abandoned the request that the municipal board approval not be sought; rather we have left that approval requirement in place. With the amendment that is proposed, it is only in the circumstance where there is no objection to the passage of a bylaw to limit the access to a highway that the bylaw becomes effective.

So the main provision of the Public Transportation and Highway Improvement Act that the Ontario Municipal Board approval is required will remain with this amendment. It is only in the event that no objection is taken to the application for the board's approval that the bylaw would become effective the day after the appeal period expired.

Mr Boushy: For the parliamentary assistant: Has the staff of municipal affairs, the senior staff, looked at these amendments? Are they satisfied with them?

Mr Hardeman: This was one of the concerns that the ministry had, the fact that the original bill allowed this process to happen without a reasonable appeal process for anyone who may be negatively impacted by this action. So the municipality suggested following exactly the same time lines as the Ontario Municipal Board would follow under present rules and regulations, save and except that presently the application would go to the Ontario Municipal Board and nothing would be finalized until the Ontario Municipal Board had gone through their waiting period to see if there were any objections and then waited until the municipal board made a decision and sent back the decision.

This here puts all the timelines and protections for the individuals involved in place in exactly the same way that it is everywhere else in the province, save and except that at the end of the process, if no one appeals, then the bylaw comes into effect the day following the last day of appeal. They do not have to wait for the Ontario Municipal Board to make their decision. It puts all the protection in for the citizens, and it takes away some of the duplication and overlap as it relates to the Ontario Municipal Board.

Mr Boushy: I want to go back to my original question. Did the senior staff at the municipal affairs department look at all the amendments and are they all in favour of them all?

Mr Hardeman: Yes.

Mr Boushy: They are? Okay.

The second question I have — I have been on the St Clair Parkway Commission and I know the history of Chatham trying to suffocate or take over the property owned by the St Clair Parkway Commission within Chatham — is there anything in this bill that gives you complete authority to take over or suffocate or interfere in the property owned by the St Clair Parkway Commission?

Mr Lord: The answer is no. There's nothing in this bill that would deal with property or authority related to the St Clair Parkway Commission.

Mr Boushy: What name does the St Clair Parkway Commission property come under within the municipality of Chatham? Is it owned by the St Clair Parkway Commission or by the government of Ontario? Who owns that property? Who has the title for it?

Mr Thomas: The St Clair Parkway Commission.

Mr Martin: I just want to go on the record as stating that this is a significant piece of work here, obviously with lots of implications and connections with various and sundry acts that are already out there. I want you to know that I didn't get it until I think it was yesterday. We went looking for this package, so we could take a look at it. We really didn't have much time to put much work into understanding the implications or the concerns that are raised in the package. Then today when we come in, we find that we have a significant package of amendments that also have, I would suggest, some serious implications and responses to some serious issues that have been raised that I would personally like some time to deal with.

There is no doubt in my mind but that this bill is driven by a very sincere interest on the part of Chatham-Kent and municipalities to come to terms with some pressures that are on them around the question of amalgamation and also the question of how they pay for the costs of delivering services that now have been downloaded because of the province's move to do that. I am wondering why this is before us and not before somebody else who could give it the attention it deserves. There are processes around here that call for more debate and study than this particular route which will see, if we pass this today, this go into the House and then be summarily scooted through third reading, probably about 11:45 tomorrow night.

When I consider the implications of all this on the people of Chatham-Kent, personally I don't feel competent at this point, because this is my first introduction to this, to be passing that kind of judgement. I take my role here at the Legislature very seriously and, whenever I make a decision on behalf of the people out there, whether it be my own jurisdiction or somebody else's, I want to feel confident that I understand the implications and that I don't do anything or be party to anything that will in the long haul be more hurtful than helpful, and I'm not convinced that this piece of legislation is going to be that.

My suggestion, Mr Chair, would be that we defer this until such time as at least I myself and my caucus and the people in my caucus who do research have a chance to go over this and find out just what the implications are and how it connects with other pieces of legislation and to

consider whether there is a different route that this should be going through to make sure that we are connecting appropriately with the various pieces of legislation that are out there that will be affected and that what we do in the long run will be more helpful than hurtful.

The Chair: Thank you for that suggestion.

Mr Gerretsen: I must admit that I am starting to get many of the same concerns. We're sort of caught between a rock and a hard place. Here we're dealing this the day before the House recesses. I had hoped that this matter would have been raised two or three weeks ago so that if there were any major concerns that came out of the process, they could have been addressed in the meantime. You're kind of damned if you do and damned if you don't. I know what the spin will be. If the opposition were to vote against this bill, then we're somehow against the people in Chatham-Kent restructuring, but on the other hand, I think it's totally unfair to this committee to be given a major piece of restructuring work with some major amendments to it at the very last moment. It really hasn't given us any chance to study the entire matter.

I'm not here to delay the matter at all, but on the other hand, we have a very legitimate concern expressed by a member of the general public in Chatham-Kent who obviously has been quite heavily involved with this matter, and we're expected to deal with it immediately because of matters that were left out of the restructuring process. I don't know who is to blame here, whether the ministry is to blame, whether their restructuring order should have taken care of a lot of these issues that are raised now or whether it's the restructured municipality or Dr Meyboom's report. I have no idea where the blame lies, but I think it has put this committee in a heck of a place.

Just getting back to the section 5 issue that was raised by Mr Boushy, I want to understand this correctly. If you want the same rules and regulations to apply as far as the OMB is concerned as apply to every other municipality, why does this section even have to be in the act? I guess this is a question to Mr Hardeman. Why do we need this if there is already a procedure set out in the Ontario Municipal Board procedural guidelines?

1130

Mr Hardeman: I'm not sure that I can totally answer it. Obviously the original document included a process of controlling or creating controlled-access highways that, in the ministry's opinion, did not include the protection for the people who could be impacted in any way, positively or negatively, to have the legal process in place that they could have their concerns addressed. It was pointed out to the applicants, and the applicants have proceeded to put forward changes or amendments that would deal with the public's protection in the same way that all other people in the province have that protection, and that's the amendment that will be coming forward.

As to the total need of the section in the bill, I would defer to Mr Thomas from the city of Chatham-Kent. Maybe he could enlighten us on that, or Mr Lord.

Mr Lord: If I might take the liberty, there are three things. One, on the issue of section 5, Chatham-Kent has had referred to it or delivered to it, both by way of the assumption of former county roads and by way of restructuring, the privatization of the maintenance of provincial highways, a significant additional mileage of roads that otherwise weren't within the control of the municipality. We have prepared a map, and you can see the significant mileage. Controlled access of those highways has been vested in the municipality.

All this section would now do would be to ensure that if there was a controlled access bylaw passed in one of those links, if there were no objections to it, it would automatically be made effective. It wouldn't have the delay of an Ontario Municipal Board file being opened, pursued, held in abeyance and then finally a disposition made.

Mr Gerretsen: But isn't that the same thing with respect to all municipalities that have taken over provincial highways? How is your situation here different from other restructured municipalities or other municipalities in general that have taken over provincial roads? That's what I'd like to know.

Mr Lord: I think the only two other municipalities that have any comparison are your own, sir, Kingston-Frontenac and Pittsburgh township. That did a restructuring, not of the scale of Chatham-Kent, because it was left with most of the county still divided into area municipalities. The only other restructuring is Metropolitan Toronto in the city of Toronto, and it has an identical provision to this one in its bill.

Chatham-Kent is different in terms of the geographic area and the delivery of those links into the municipal system. It's true that every other municipality might benefit from having their bylaws made effective where no objections are taken. That's a matter that might be put on the docket for general enabling legislation. Chatham-Kent, in its initial approach, simply sought the removal of the approval power entirely, and rather than that being granted, assented to a collapsing of the administrative time to effect that purpose by this rather modest amendment.

Mr Gerretsen: Just so that I'm clear then, because it isn't quite what we were told before, the present process that's applicable elsewhere in the province is that all of these matters, whether there is an objection or not, have to be given OMB approval? That's correct, right?

Mr Lord: That's correct.

Mr Gerretsen: So you're trying to fast-track it here. That gets right back to the point that I was trying to make to Mr Hardeman earlier. If you're doing it here, why don't you change the Municipal Board Act and do it for all municipalities?

I totally disagree with you, Mr Lord. In the Kingston area, we went through a major restructuring of adding two rural townships to the old city of Kingston that probably add a land mass of about, I don't know, 30 times the preexisting old city land mass. You have exactly the same situation, and what you're really trying to do is fast-track the situation here. I've got nothing against fast-tracking it, but why should you be given special powers in that regard? If it makes so much sense to the ministry that this is the way to go, it should apply to all municipalities. It

gets rid of needless red tape, gentlemen. You're always so interested in that.

Why don't you give them directions to do that with respect to all other municipalities as well that are involved in similar situation? I don't think we should single out one municipality, give them that power and not give it to the rest.

The Chair: Mr Lord, and I think there's also a question from Mr Hardeman. I will mention I've got about five other questions waiting.

Mr Lord: Just very briefly sir. The two other matters were that, in terms of the presentation by Mrs Thompson, I can give you a little bit of a history, because I acted on behalf of the municipality in 1997 on the settling of a long-term waste management agreement between BFI and the city of Chatham. That's an agreement that was struck, signed and adopted by the new municipal council of Chatham-Kent. That has run in parallel to an EA application for an expansion of the Ridge landfill, and it is a matter that has been of some interest locally for many years. This bill does nothing in respect to that matter. It does not address environmental matters at all.

In terms of the creation and the link with drainage tribunals, the parliamentary assistant was absolutely correct. What this bill would do would be to simply remove some very significant air time from the Chatham-Kent council, transfer that hearing obligation to a board, leaving the council with the responsibility to deal with the legislative function. It makes no change in the relationship between waste management and the approval processes associated with the expansion of the landfill and drainage matters; in fact, it perhaps expedites it. It is essential to the council of Chatham-Kent that it not be vested with the time requirements to deal with these 4,000 kilometres of drains.

The final thing, sir, is that, in relation to the deferral, Chatham-Kent has an essential element of this bill being the special area rating issues that are necessary to have the power to issue the tax bills that have been held up so far this year. Without that power, we have no ability to treat the former area municipalities in any way commensurate with what their past practices have been. So this bill is essential to releasing the municipality to raise its revenues for the year.

The Chair: Do you wish to answer a question, Mr Hardeman? Then I go to Mr Leadston.

Mr Hardeman: I think, as it relates to the question of the OMB and the need for the OMB approval as opposed to just following the OMB time lines and considering approval if there are no objections, it relates to, as was mentioned by Mr Lord, the fact that the Metro Toronto act gave that to the Metro area for years and years and that has just been continued. The one difference was, as the applicant put this forward, in Toronto it not only does not require the OMB approval, it does not include the time lines that people could come forward and have their case heard before the decision became final.

Through the amendment we will be proposing that the protection for the public is the same in either case. It is really intended to remove that duplication and overlap, and I would sure take the members' comments forward to say that if this is good in Chatham-Kent, which in my opinion it is, it's good for a lot of other areas in the province too. Maybe the province should be looking at it rather than waiting for OMB approval to provide the situation where the public has those time line protections, but we only have the OMB process if someone requests it. The local people can make decisions on behalf of their local constituents, and if everyone agrees with that, that should be the final decision.

Mr Gerretsen: So you'll give me your undertaking that you'll bring this forward before tomorrow midnight, so that we can change it for all municipalities. Is that correct?

Mr Hardeman: No, that was not the commitment I was giving you.

Just very quickly if I could, Mr Chair, I think there was some comment about the timing of the bills coming forward and I apologize on behalf of the applicants as to how short the time frame is. But I would point out that the need for this bill has been generating over the past number of months. It wasn't evident on January 1 what changes needed to be made to make the system work effectively. If all the items in this bill had been recognized last fall, Mr Meyboom would have or could have included them all in his restructuring order, at which point none of this would have got back to this committee or any other committee. It would have become the way Chatham-Kent was governing.

It was just through the process of their amalgamation and integration of their systems that the need for some of these changes arose. As it relates to the timing of the amendments, I point out to the committee members, who I'm sure have all served on other government bills, that amendments always come forward at the conclusion of the hearings when it goes to clause-by-clause. There never are weeks of study on amendments, so I think there's not much difference here from what we would have on any government bill. I just reiterate the comments made by the applicants that the need to send out tax bills in Chatham-Kent dictates that this bill get approval or non-approval in the very near future so they can deal with the functioning of their municipality.

1140

Mr Gary L. Leadston (Kitchener-Wilmot): I agree with Mr Hardeman in the sense that on other committees, it's not unusual to have received a packet of amendments. I don't accept the argument of my learned colleague that this is irregular, the urgency and all of that. To me this has been the norm here and at other committees, to deal with that.

Mr Gerretsen: But not on a private bill.

Mr Leadston: With all due respect, I did not interrupt you when you've spoke, and I would appreciate that I have the floor. Thank you very much.

Mr Thomas and the members here presenting and the community have put a great deal of effort and time and energy, and I'm sure a great deal of expense in legal fees,

to hone down and develop the act as we see it this morning with the proposed amendments. Personally, I don't see any further reason to sit here and debate some clause or interpretation of one word or one section. That's not my purpose; that's the purpose of a court. With that in mind, Mr Chair, I move that we call the vote.

The Chair: We have a motion on the floor. Any discussion?

Mr Shea: I always have a problem with closure motions at any time, although I don't mind it being done in the Parliament. That's a different matter, and I support that strongly. I want to tell you, it is in the committee where significant debates occur in terms of the substance of bills. I respect my colleague's attempt to facilitate matters and I know he'd like to do it for the deputants. I appreciate that, but I really am finding this debate of some interest and of help to me. I personally will not support the motion at this point, at least until I've had a chance to ask a couple of questions. I've been reasonably restrained to this point.

Mr Martin: Earlier, if you remember, I suggested deferring this. I didn't table that as a motion because I wanted to hear from others how they felt and some of the questions and comments they might have, because I don't want to put closure to this either. I still feel very strongly — I'm not particularly interested in defeating it here this morning even if we had the potential to do that. I've got enough respect for the work that's been done to at least defer it so that we could study it a wee bit further and I could get the kind of background information I need to speak to it intelligently, because, as I said, I don't feel I've had the time to do that here today. I would certainly like to hear some of the comments and questions of other members before I would do that.

What I'm saying is that I was going to table a motion to defer, but I held back on that. I would hope that we wouldn't now be tabling a motion to vote before I get a chance to do that, if that's where we end up.

The Chair: Just for clarification, Mr Leadston is not moving closure.

Mr Leadston: Mr Chairman, I can't move closure — I've clarified that with the clerk — until the motion is on the table to call for the vote, so I'm calling for the vote. If you would accept closure, I'll move closure.

The Chair: Mr Martin, you're still making a suggestion but not a motion.

Mr Frank Sheehan (Lincoln): Mr Chairman, it's not debatable, so just call the question. If he put a motion, I will vote on it.

The Chair: I understand that the motion from Mr Leadston is debatable before I call the vote.

Mr Shea: Who said that?

The Chair: I'm referring to the clerk; I can defer to the clerk on that.

Mr Shea: Could I hear the standing order reading that? My understanding is that when a member puts the question, that's non-debatable. It must be at least put to the committee immediately.

Clerk of the Committee (Mr Viktor Kaczkowski): There is no question on the floor. Mr Leadston asked that we go to the vote. That's not the same thing as a closure motion. A closure motion indicates that further discussion — and they vote on the motion on the floor. At this point in time, the only motion on the floor is Mr Leadston's motion that the committee begin voting on the bill.

Mr Shea: Okay. Not that there's much difference. That's "potato" and "potahto."

The Chair: Any further discussion on Mr Leadston's motion?

Mr Martin: If we're going to move to a vote, I was going to ask for a recess, but my colleague is back and I'm okay.

Mr Carroll: I'd just like to make a couple of comments and this is an appropriate time of day to make them, I believe. I understand where Mr Martin and Mr Gerretsen are coming from on this. This is in relation to Mr Leadston's motion. The restructuring request for our municipality came from the people in the municipality, and neither this committee nor anybody else had input into that particular restructuring order that was brought down.

That restructuring order that was brought down at the request of the citizens of Chatham-Kent has now created some issues that need to be resolved. The municipality has designed, with the help of their legal counsel, the resolution to those issues. They have brought them forward and presented them to the various ministries, and through a process of negotiation, the ministries have accepted, with modifications in some cases, the solutions by the local municipality.

We are moving to a system of more sophisticated government at the municipal level. We either allow municipalities a little bit more autonomy and the opportunity to simplify the processes, to get rid of some red tape, to do things that are appropriate for their municipality after due consideration at the municipal level, and legal consideration and ministry consideration — while the idea is complex, I believe that the municipality understands what they're asking for, their counsel understands what they're asking for and our ministry people understand what they're asking for, and all concur. On that basis, I believe the legislation should go forward without any additional debate.

The Chair: We have a motion before us from Mr Leadston to commence voting on this bill.

Mr Shea: Chair, on a point of order: May I ask what that means? In your mind, what does that motion mean, "to commence voting"?

The Chair: That means that I would call the bill and walk through the sections and amendments —

Mr Shea: So in your mind, that will mean there will be no further discussion on the matter. You'll go directly to voting clause by clause. Is that what is in your mind?

The Chair: Well, there would be discussion on amendments, I would think. Yes, there would be opportunity for discussion on amendments.

Mr Shea: And on the bill in general before the final vote? Is that in your mind?

The Chair: Yes, it's done section by section. It's a clause-by-clause consideration of sections and amendments.

Mr Shea: Fine. I take your answer.

The Chair: Do you wish to repeat the wording of the motion? If not —

Mr Leadston: It's certainly clear in my mind and I trust it's clear in everyone's mind. What we have here is a group of individuals representing a significant municipality in our province who have brought to us something they would like to have developed in their community. I think it's our role to facilitate that, to accommodate the needs of this community and the needs of the citizens.

I'm asking that if you don't want to vote for it, then vote against it. I'm asking that we call the question to vote to approve or disapprove Bill Pr19.

1150

The Chair: Before I call the question, there are several hands up. Mr Sheehan, do you have discussion on this motion from Mr Leadston?

Mr Sheehan: I have questions I would like to ask of the deputants. I'm not opposed to this motion, but I want clarification. I'd love to support Mr Leadston's motion, but I can't because I don't think we've had enough information and I would like more information so I can make an enlightened decision. I don't think we have to refer it to a committee to be studied. I think the thing is pretty straightforward. I'm assured that the environmental concerns are taken care of by the environmental act. I am assured that we need to have local solutions for local problems. I would like to know what agriculture's concerns are and I would like these gentlemen to explain these bloody amendments. I don't think we can make any decision until we have that, so let's beat his motion down and get on with business. The clock is running.

Mr Leadston: Can I just ask a point of clarification, Mr Chairman?

The Chair: Okay, and then I have further discussion on your motion.

Mr Leadston: Mr Sheehan's questions or concerns can be addressed. If he has questions with respect to the amendments, they can be addressed, as you indicated earlier, by questions to the amendment at that point in time. He can direct them to you or to the presenters. Am I correct?

The Chair: That's my understanding as explained by the clerk.

Mr Leadston: So, Frank, you can support my motion and still have your questions asked during the process dealing with each amendment.

Mr Sheehan: I don't want to have an interminable debate on each and every clause of this thing. I'd like them to answer all the questions at one time so we can make a decision. That's what I think we should have.

The Chair: Further discussion on Mr Leadston's motion? Seeing none, we have a motion before us from Mr Leadston. All in favour? Opposed? I declare the motion defeated.

We now continue with questions to the applicants, parliamentary assistant or interested parties —

Mr Carroll: Mr Chair, can I just ask one other procedural question? We've obviously got some questions. We don't want to go to the vote yet. It's certainly approaching the committee time here. Is there any other way we can deal with this issue? The municipality needs it. We have to get it approved. Is there some other procedure available to us other than this committee meeting this morning to deal with this issue? Can you give us that information?

The Chair: We have a suggestion to defer. I would perhaps —

Mr Shea: On a point of order, Chair: Will you ask the clerk to advise the committee, according to the standing orders, of the time this committee must stand down? Are we able to go until 1:30?

The Chair: I'm afraid we have gone past that on other committee business.

Mr Shea: We have gone past what? I didn't understand your response.

The Chair: Yes, we have. We have gone past — I think you said 1:30.

Mr Shea: So I'm saying to you we can continue. I'm trying to respond to Mr Carroll's concern. We could in fact have this wrapped up within 20 minutes or half an hour. I want to make sure I'm not suddenly trapped by a magic finger of the clock that says, "You're done." I'd like to be assured by the Chair we can continue.

The Chair: We can continue if no one objects.

Mr Shea: Until what time? When does an objection take effect?

The Chair: When it's made.

Mr Shea: Come on. You're telling me now that if somebody made an objection at any time during a committee meeting?

The Chair: I think we were referring to this 12 o'clock.

Mr Shea: After 12 o'clock, and if they make an objection, what does that mean?

The Chair: Do you want to answer that question?

Clerk of Committees (Ms Lisa Freedman): This committee is authorized to meet in the mornings, and this committee can go until 12 o'clock. Committees have gone past 12, but if anybody objects, that's it.

Mr Shea: Then I will move that we continue this committee meeting until at least 1:30 pm.

The Chair: We have another motion. Discussion on Mr —

Mr Hardeman: Mr Chair, I would just move unanimous consent to carry on with this discussion so we can come to a resolution to this matter.

Clerk of Committees: Unanimous consent you really can't move, or move it on a motion. You can just keep going and it's to the point where one person at any time can object after 12 o'clock.

Mr Leadston: Mr Chairman, I will object, because I think I'm satisfied, and I trust I have partially satisfied my learned colleague to my right, in the sense that if he has concerns or any member of the committee has any

concerns or questions of the staff, the ministry or the presenters, they can be adequately addressed during the process of moving the bill and the amendments. You have assured me of that, the clerk has assured me of that and in fact has assured the committee.

In a sense, the true essence is that all the questions will be dealt with and addressed as we go through the process, so then I object to the continuance beyond 12 o'clock.

Mr David Caplan (Oriole): On a point of order, Chair: What Mr Leadston is talking about: We just debated his motion to that effect. The point is, it's already been decided by this committee so let's move along.

Mr Gerretsen: I'll just give you notice right now that I have to leave at 12:30 for another meeting.

Mr Martin: I would table a motion right now to defer this piece of business until either the next time we meet or, if the applicants or the ministry determines that there's another route that we should go to deal with it, then they go ahead and do that.

Mr Shea: In that case, I'm prepared to vote right now.

The Chair: Mr Martin has tabled a motion to defer. Discussion?

Mr Hardeman: I would point out to the committee that a deferral is the same as a denial of the need for this bill for the city of Chatham-Kent because, as the committee members will be aware, in all probability the Legislature recesses tomorrow night and will not be back for summer. This would not allow the municipality of Chatham-Kent to deal with their taxation issues. I would vote against the recommendation to defer to a later date because in my opinion it is the denial of the bill and I don't think we're prepared to do that.

The Chair: Before we go on, I have further advice from the clerk.

Clerk of Committees: There's just one thing, and it's the answer to Mr Carroll's original question. There's nothing to preclude the House from allowing this committee to sit this afternoon or tomorrow or tomorrow afternoon, if that's the will of the House.

Mr Gerretsen: Just so that I'm clear, I don't believe the comment that's been made a number of times that if this bill isn't passed it prevents Chatham-Kent from sending out tax bills is correct, and I'd like some clarification on that. They may not be able to send tax bills in accordance with the provisions that they're given in this particular piece of legislation, of varying tax rates etc, but there's nothing to prevent them from sending out tax bills now that the assessment rolls are out or coming out, just like any other municipality. I don't think the impression ought to be left that somehow, if this matter isn't dealt with, the people in Chatham-Kent won't get a tax bill. They will get a tax bill, maybe not the kind of tax bill the council would like to send, depending upon the various rate structures, but tax bills can be sent out.

The Chair: Mr Shea, discussion on this? This is a motion from Mr Martin.

Mr Shea: The parliamentary assistant was absolutely correct. A motion to defer right now could be construed in some minds as mischievous. I don't believe that's what Mr Martin has in mind. I believe he genuinely would like to have more time to sort through this and to read it. I take him at his word, but I am pressed by the comments of the deputants that in fact this creates serious difficulties for them in terms of the tax notices. The parliamentary assistant has pointed that out correctly.

What puzzles and bemuses me is the earlier comment of Mr Gerretsen that he recognizes the significance and the rationale of this and would like to have this apply to all municipalities in Ontario. That's almost a direct quote. He's perhaps expressed a personal view of being offended that this municipality may have a chance to get a fast-track on other municipalities and would like to see this regularized through the Municipal Act. I understand that and I respect Mr Gerretsen's point of view, but what he has admitted is that this is good stuff for the municipality. With that in mind, Chairman, I'm quite prepared to take the vote right now, and I thank Mr Gerretsen for having clarified that matter for me.

Mr Gerretsen: I was referring to one particular section, sir, just for the record. That's section 5 of the act.

Mr Shea: That's the only section that concerns me.

The Chair: Any further discussion on Mr Martin's motion to defer?

Mr Hardeman: In order to deal with the issue at hand, I would be so bold as to make the suggestion that we deal with the bill section by section. If there are sections that Mr Martin or other members of the committee have a problem with, to not support those sections makes more sense than to not deal with the bill and defer the whole matter back to committee.

Interjection.

Mr Hardeman: No, I think the motion was to put the question. I'm not putting the question; I'm making a suggestion that that will do much more to facilitate this discussion. As we go through the sections, if you have a problem with the section, ask your questions and make your comments on that. I think we could then expedite this and deal with the matter before us.

Mr Shea: I'm moving the question be put, so you decide which one takes precedence.

The Chair: I have a motion before me from Mr Martin to defer and I'll call the vote on that motion.

Mr Shea: That takes precedence over putting the question?

The Chair: Yes. I just mentioned that I have a motion on the floor from Mr Martin to defer. All in favour of Mr Martin's motion to defer? Those opposed?

Mr Sheehan: Mr Chair, I move the adoption of this bill, if that's the proper way to put it, as amended.

Interjection: You can't do that.

Mr Sheehan: Why not? We're sitting here 20 minutes and we fiddle away talking about what day of the week it is. Let's get on with some business.

Mr Gerretsen: None of the amendments have been moved yet.

Mr Sheehan: We'll move them.

Interjections.

The Chair: Committee members, we do have a clause-by-clause process here. Further discussion?

Mr Martin: It being past 12 of the clock, I object to us going beyond that time.

Mr Hardeman: Unanimous consent to sit past the time?

The Chair: I've been informed that as Mr Martin objects to going past 12 o'clock — and I think we understand that once we've gone past the hour of 12 o'clock, if someone objects, we call the vote on this bill.

Interjections.

The Chair: I'm sorry, we adjourn.

Mr Shea: On a point of order, Chair: I asked this earlier to ensure that we were not put under the guillotine of the clock. I'm really offended by the step we're at right now. Either you received faulty information or somehow the information flowing from the Chair to me was miscommunicated. But I have to tell you that I'm offended and I would like the Chair to at least give an undertaking that we'll find a way to bring this committee back into session later today or tomorrow, before the Parliament rises for the summer. I'd like an undertaking of that and perhaps asking unanimous consent of this committee to do so.

Mr Gerretsen: There's a House leaders' meeting at 12:30 this afternoon. Maybe that will deal with the issue.

The Chair: Mr Shea, the protocol has been explained to you. There is an objection to go past this time and I declare this meeting adjourned.

The committee adjourned at 1202.

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Wednesday 24 June 1998

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI PRIVÉS

Thursday 25 June 1998

Jeudi 25 juin 1998

The committee met at 1007 in committee room 1.

MUNICIPALITY OF CHATHAM-KENT ACT, 1998

Consideration of Bill Pr19, An Act respecting the Municipality of Chatham-Kent.

The Chair (Mr Toby Barrett): Good morning, everyone. Welcome to what I consider an emergent meeting of the standing committee on regulations and private bills, Thursday, June 25, 1998. We are continuing to consider one bill, Bill Pr19, An Act respecting the Municipality of Chatham-Kent, sponsored by MPP Jack Carroll. The applicants are at the witness table.

From yesterday's meeting there has been considerable discussion. We are also aware of a number of amendments to this bill. I suggest that we continue where we left off, unless there are any suggestions from committee members.

Mr Derwyn Shea (High Park-Swansea): Clause-by-clause?

The Chair: Or we could go right into clause-by-clause, which I think we all understand provides the opportunity for discussion as we go through those several steps.

Mr Shea: Does the parliamentary assistant have any advice?

The Chair: Actually, I'll go to Mr Martin first, then Mr Hardeman.

Mr Tony Martin (Sault Ste Marie): I just have a couple of general questions that I would like to put to the deputants. I didn't get a chance yesterday. To be honest with you, this is a pretty major piece of work that I didn't fully understand because I hadn't had any prior presentation of it to me.

The Chair: So you're suggesting we go to further questions?

Mr Martin: If you wouldn't mind, yes.

The Chair: Sure. Do you have a suggestion as well on direction, Mr Hardeman?

Mr Ernie Hardeman (Oxford): I personally have no problem with more general questions. I was going to suggest that all the general questions could be dealt with as we go through the sections, recognizing that this is not going to be a process where we vote on amendments or on sections without having the ability to question and debate each individual section.

The other thing that's rather important is that the amendments to be put forward change significantly some of the sections presently in the bill, so committee time may be better spent discussing the amendments rather than the bill that is before us.

Mr Martin: I have just a couple of contextual questions to ask that wouldn't be directly related to the amendments.

The Chair: And then, as Mr Hardeman suggested, we can cover the rest in clause-by-clause.

Mr Martin: There was a suggestion yesterday, given what was perceived to be the hurried nature of this — the only concern I had was that I didn't fully understand the implications. I wanted to get somebody who works with me to do a little research so that I might carry out my duties here in a responsible and accountable fashion as we look at these things.

There was a suggestion that this was done in a bit of a hurried nature and that the people of Chatham-Kent didn't really know what was in this bill or fully understand it, that the amendments in particular were not shared with the folks back home, that they were brought here to be tabled and to be voted on when the people you're probably most concerned about and whom we here need to be most concerned about haven't had any chance to comment on those. Do you have any concern about that as you speak on their behalf and as you act on their behalf, that perhaps there are some things now that have changed, first of all the bill, and then the amendments to it?

Mr Ian Lord: There was a normal process followed in which a bill was drafted by the municipality and notice was put in the local newspapers for the requisite number of periods, which identified in explanatory note-form terms the substance of each of the elements of the bill. Since that time, there have been two evolutions. One is that the city, in conjunction with the legislative counsel's office, has deleted certain provisions of the bill, so there would be nothing adverse to the public at large which would occur as a result of that process.

Following the discussions with the legislative counsel here in Toronto, the bill, as you saw it in first reading, was drafted. That draft did not add anything new from what was notified or advertised to the public in Chatham-Kent.

Following the first draft, a succession of meetings have been held over several weeks with several ministries. No new provisions have been added, obviously because the notice had scoped the extent of the bill, but several of the

provisions in the bill as seen in first reading have either been deleted or modified. The deletions, of course, should give no concern. I think there are three modifications that have any substance, and they are also narrowing or scoping the bill further. They are not enlargements of powers.

It would be my submission to the Chair and the member that the bill as is proposed here today, as has been modified, is a narrower bill or a lesser bill, in the sense of what the public has seen, than either the notice provisions or the first reading. I'm not sure whether that —

Mr Martin: Yes, that's helpful. The other more specific question is the one raised by the woman who presented to us yesterday, Mrs Thompson. That's her contention, that this gives the municipality power that they didn't have before to, for example, enter into agreements that would, on a very dramatic scale perhaps, see landfills develop that would take Toronto's garbage. She feels that would happen now more readily than it could have happened before. Is that the case?

Mr Lord: There is no provision in this bill that deals with landfills or the EA process whatsoever. The contract that I explained at the end of the day yesterday has been entered into between Chatham-Kent and BFI is a waste management contract that is under public legislation. That is a contract that was entered into by the former city of Chatham and later ratified, earlier this year, by the new municipality of Chatham-Kent under that public legislation. That agreement is in effect and is unaltered by anything in this bill.

Parallel to that process, there is an EA application under way by Browning Ferris Industries for recognition of the design and extension/expansion of that landfill. That process is, as far as I know, continuing. It's fully independent of this legislation. This legislation doesn't address that in any way. The link that was made by the deputant yesterday is that in some way the creation under this bill of a drainage board, which would relieve the hearing function from council, in some way interfaces with that EA process. Certainly by the statute it does not, and I'm not aware of any linkage at all. The deputant's concern in that field was that whereas formerly there was a two-tier municipality in place, where the township of Harwich and the county of Kent allowed that EA process to have two vehicles of input, with restructuring that was effective in January 1998, there is now a single-tier municipality and only one vehicle of input into the EA process. She drew a link that that one vehicle was one less than previously, and second, that if this new municipality creates a drainage board that is not the council, that somehow that may be — I'm not sure how she characterized it or in her fax today how she relates the two. But somehow that was seen as a fear, a fear of the unknown as to what the implications of the creation of that drainage board hearing body might be.

What this bill does is create a drainage board to relieve from council the function of holding the hearings in respect to these 4,400 kilometres of drains, but council still makes the decision and would still be available to any member of the public for deputation.

Again I assert that there is nothing in this bill — the creation of that drainage board to relieve council's workload — that interfaces with the EA process or in any way prejudices that process.

Mr Martin: My research tends to support your position on that, so I have no further difficulty.

The Chair: Earlier, Mr Hardeman made a suggestion and I would wish to follow on that. I ask that we consider the amendments and the various sections if committee's agreeable to that. Are the members ready to vote on the sections?

Mr Shea: Agreed. Go through it.

The Chair: We are considering Bill Pr19, An Act respecting the Municipality of Chatham-Kent, sponsored by MPP Jack Carroll. There are a number of amendments.

Shall section 1 carry? Carried.

I understand there is an amendment to section 2.

Mr Hardeman: I move that section 2 of the bill be amended by adding the following subsections:

"Same

"(1.1) The council may, by bylaw, vary the tax rate to be levied on the rateable property in one or more areas of the municipality for the purpose of making adjustments in taxes relating to the administrative costs of the board established under subsection 6(1), including the salaries of the members of the board.

"Limitation

"(1.2)Administrative costs of the board that are attributable to a specific drainage work shall be levied under subsection (1.1) only against the area or areas that benefit from that drainage work."

The Chair: We have two amendments on section 2. First of all, any comments on this first amendment? Shall this amendment carry? Carried.

Mr Hardeman: I move that section 2 of the bill be amended by adding the following subsection:

"Restrictions

"(3) The tax rates for different classes of property (as established under the Assessment Act) must bear the same proportion to each other as the tax ratios established under section 363 of the Municipal Act for the property classes."

The Chair: Comments? Shall this second amendment to section 2 carry? Carried.

Shall section 2, as amended, carry? Carried.

I understand there's an amendment to section 3.

Mr Hardeman: I move that subsection 3(1) of the bill be amended by adding the following definition:

"'predecessor municipalities' has the same meaning as former municipalities in the restructuring order."

The Chair: Comments? Shall this amendment to section 3 carry? Carried.

The Chair: There is a second amendment to section 3.

Mr Hardeman: I move that the definition of "special local levy" in subsection 3(1) of the bill be amended by striking out "all" in the second line.

1020

The Chair: Any comments on the second amendment? Shall this second amendment to section 3 carry? Carried.

Shall section 3, as amended, carry? Carried.

I'll just draw to the attention of members of the committee that in terms of section 4, the applicant does not have an amendment, and I think partly because of that recommends that —

Mr Hardeman: Mr Chair, in speaking to section 4, I will be voting against it, as the applicant has informed us that they would prefer not to have section 4 approved in the bill.

Mr John O'Toole (Durham East): The applicant being Jack Carroll?

The Chair: Jack is the sponsor. The applicant would be —

Mr Shea: The municipality. The parliamentary assistant is recommending that —

Mr Hardeman: The parliamentary assistant will be voting against this section, yes.

The Chair: With that information, I'll pose the question.

Shall section 4 carry? Defeated.

Section 5 has at least one amendment.

Mr Hardeman: I move that section 5 of the bill be struck out and the following substituted:

"Designation

"5(1) The approval of the Ontario Municipal Board is not required for a bylaw passed by the council under section 95 of the Public Transportation and Highway Improvement Act if,

"(a) the Ontario Municipal Board has a procedure in place to give public notice of the bylaw and to give persons the right to object to the bylaw; and

"(b) no objection is filed in accordance with that procedure within the time established by the Ontario Municipal Board.

"Same

"(2) If the approval of the Ontario Municipal Board is not required for a bylaw pursuant to subsection (1), the bylaw shall be deemed, on the day after the time for filing an objection expires, to have come into force on the day it was passed."

The Chair: Comments? Shall this amendment to section 5 carry? Carried.

Shall section 5, as amended, carry? Carried.

Section 6.

Mr Hardeman: I move that subsection 6(1) of the bill be amended by striking out "this section and" in the second line.

The Chair: Any comments? Shall this amendment to section 6 carry? Carried.

Anything further?

Mr Hardeman: I move that subsection 6(2) of the bill be struck out and the following substituted:

"Eligibility

"(2) Only those persons who are eligible to be elected as members of the council or who are members of the council are eligible to hold office as members of the board."

The Chair: Comments?

Mr Frank Sheehan (Lincoln): Can you explain the difference between a person who is eligible to be elected and members of the council? There seemed to be some concern about unelected people sitting on this board. If I read the interpretation, you're trying to say they have to be elected, but they just have to be taxpayers, I gather?

Mr Hardeman: The definition requires that if you allow all electors in the municipality to be appointed, someone who is already elected is a member of council not eligible to be elected. The section is to preclude other than residents of the municipality or electors in the municipality. They cannot be appointed from somewhere else.

Mr Sheehan: So if I'm eligible to be a candidate, I can be appointed?

Mr Hardeman: Yes, anyone who is eligible to be a candidate or who is a member elected to council.

The Chair: Shall this amendment to section 6 carry? Carried.

Shall section 6, as amended, carry? Carried.

We'll go on to section 7.

Mr Hardeman: I move that section 7 of the bill be struck out and the following substituted:

"Delegation by council

"7(1) The council may, by bylaw, delegate to the board established under subsection 6(1) any of its powers and duties under the Drainage Act, except for its power to make bylaws and resolutions.

"Same

"(2) The council may impose conditions with respect to the matters delegated to the board.

"Hearings by board authorized

"(3) The council may, by bylaw, provide for the board to hold hearings or to afford a party an opportunity to be heard in respect of any matter under the Drainage Act in which the council is required by law to hold hearings or afford an opportunity to be heard and section 105 of the Municipal Act applies to the council and to the board as if the board were a committee of the council."

The Chair: Any comments? Shall this amendment to section 7 carry? Carried.

Shall section 7, as amended, carry? Carried.

We go on to section 8. I understand there are two amendments.

Mr Hardeman: I move that subsection 8(1) of the bill be amended by inserting "by bylaw" after "The council may" in the first line.

The Chair: Comments? Shall this first amendment to section 8 carry? Carried.

Mr Hardeman: I move that subsection 8(3) of the bill be amended by striking out "area" in the third line and substituting "areas."

The Chair: Shall the second amendment to section 8 carry? Carried.

Shall section 8, as amended, carry? Carried.

Section 9.

Mr Hardeman: I move that subsection 9(1) of the bill be amended by inserting "by bylaw" after "The council may" in the first line.

The Chair: Comments? Shall this amendment carry? Carried.

Shall section 9, as amended, carry? Carried.

Shall section 10 carry?

Mr Shea: No.

Mr Hardeman: No. I have an amendment.

The Chair: Oh, I'm sorry.

Mr Hardeman: It would likely be an amendment out of order, Mr Chair. Similar to the other one —

Mr Shea: Follow my lead.

Mr Hardeman: — I would follow the lead of the member for High Park-Swansea and not vote for this section.

The Chair: Shall section 10 carry? Defeated.

I'll put the question. Shall section 11 carry? Defeated.

Shall section 12 carry? Defeated.

Shall section 13 carry? Carried.

Section 14 has an amendment.

Mr Hardeman: I move that section 14 of the bill be struck out and the following substituted:

"Terms of office for members of public utility commission

"14(1) The council may specify the term of office of the members of the public utilities commission of the municipality and may do so in such a way that the members' terms of office are staggered.

"Same

"(2) The members of the commission shall continue to hold office until their successors are appointed."

The Chair: Comments on this amendment?

Mr Sheehan: There is still a limitation of term, is there? Eight years, is it?

Mr Hugh Thomas: The members of the board, by our order, are members of the council. Therefore they have to be elected every three years.

Mr Sheehan: But these are not elected people who are —

Mr Thomas: They are elected. Under the order, they have to be elected members of council.

Mr Hardeman: In this case, Mr Sheehan, the public utilities must be elected officials.

Mr O'Toole: And they must be members of council.

Mr Hardeman: Yes.

The Chair: Any further comments? Shall this amendment carry? Carried.

Shall section 14, with this amendment, carry? Carried.

We go on to section 15. Shall section 15 carry? Defeated.

We go on to section 16. There are no amendments. Shall section 16 carry? Carried.

Shall section 17 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, including the several amendments, carry? Carried.

Shall I report the bill, with these amendments, to the House? I will so do.

I wish to thank the applicant, and I wish to thank the committee members for your inconvenience in coming back this morning. I declare this order of business closed.

The committee adjourned at 1029.

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Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi privés

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 2 December 1998

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI PRIVÉS

Mercredi 2 décembre 1998

The committee met at 1005 in committee room 1.

The Chair (Mr Toby Barrett): Good morning, ladies and gentlemen. Welcome to the standing committee on regulations and private bills for today, Wednesday, December 2, 1998. We are considering two private bills: Bill Pr23, An Act respecting the Corporation of the Town of Richmond Hill, and then after that one, Bill Pr25, An Act respecting the Ontario Association of Certified Engineering Technicians and Technologists.

Traditionally, once committee members are making comments or questions, we circulate — Liberal, NDP and Conservative — and we try and move that along vigorously.

It's also my pleasure to introduce Anne Stokes, clerk, who has just joined this committee. This will be Anne's first morning of business.

TOWN OF RICHMOND HILL ACT, 1998

Consideration of Bill Pr23, An Act respecting the Corporation of the Town of Richmond Hill.

The Chair: I would ask the sponsor and the applicants to approach the witness table for our first bill, Bill Pr23. The sponsor for this bill is MPP Frank Klees, York-Mackenzie. Frank, if you would introduce your applicants, and you may wish to make some brief remarks.

Mr Frank Klees (York-Mackenzie): I'm pleased to do so. With me today are Teresa Kowalishin, town solicitor for the town of Richmond Hill, and Mr George Duncan, who is the heritage coordinator for the town.

I'm pleased to say to you, that I have read every word of this bill and can recommend it highly to the committee. I am sure that there will be some tough questions for Ms Kowalishin and Mr Duncan. However, they will now explain the purpose of the bill to you. I look forward to a speedy passage of this bill by this committee.

Ms Teresa Kowalishin: Preliminary to turning to the bill itself, let me just say that the town of Richmond Hill this year is celebrating its 125th anniversary as an incorporated municipality. The significance of that for today's submission by us is really this: We have a number of very historic — some designated — buildings within the original village of the town itself, which runs along Yonge Street north of Major Mackenzie Drive for approximately one kilometre, together within the surrounding original farm community, now under residential development, comprising a number of farmhouses of vintage of well over 100 years. In fact, Richmond Hill has an inventory of 400 buildings of architectural and historic interest which have been well-documented and carefully scrutinized. The compendium in support of this bill would have indicated to you that of these properties, 31 are historically designated under the existing Ontario Heritage Act. In fact that number, as of November 4, is 38.

The point is, the building inventory, by virtue of the original village of Richmond Hill having had this long, illustrious history, comprises both residential and non-residential buildings. The glitch, if you will, in the existing Ontario Heritage Act is this: Where a building is designated, as many of ours are, and an owner wishes thereafter to demolish or alter the building without the municipal council's consent, if withheld, then a period of a mere 180 days needs to pass — six months — before the owner is entitled under the Ontario Heritage Act, as a right, to demolish the building.

The corollary to that, we say, in existing legislation is the Planning Act and the demolition control powers under the Planning Act, which can be triggered even after the expiry of 180 days under the heritage act, so long as the municipality is subject to demolition control, which Richmond Hill is, but also so long as the building in question, which is sought yet to be preserved by way of the demolition control powers, is a residential building, not a non-residential building. In that case, the Planning Act provides that the demolition control powers are such that unless the council consents to the demolition of a residential building or a building permit issues, then the building may be demolished.

What we're trying to achieve in this special legislation is not unique in Ontario, although important in Richmond Hill. You'll see in our compendium the special legislation, which this one word for word emulates, of the city of Toronto, our sister municipalities, if you will, in south York region — Vaughan and Markham — London, recently Kitchener and the like.

What it entails is just this: an amendment to the heritage act by which the 180-day period following which an owner can demolish or alter a building without municipal consent has another criterion added to it: that the owner would be entitled to demolish, without council's consent, a designated historic building, residential or non-residential, based on the expiry of 180 days or six months and the issuance of a building permit to replace or change the designated building.

That tracks into the heritage act some of the existing powers only applicable to residential buildings currently under the demolition control powers of the Planning Act. It fills a void for us to protect non-residential buildings which aren't subject to demolition control.

Finally, recently, as an example of our need for this legislation, we were in the position of telling the owner of a designated old farmhouse of considerable heritage and architectural value, who took the position that this farmhouse, though designated, could be demolished, there being six months after a request for demolition, "That may be the case as to the heritage act, but the heritage act is, by its words, subject to the Planning Act and demolition control powers would require you to also obtain a demolition permit and council's consent because this is a residential building."

I'm sorry to be so complex about this. I hope I'm being somewhat simple. The owner didn't respond to our correspondence but, fairly, that owner might have said this to us: "This isn't a residential building. It's a vacant old, historic farmhouse. It was a residential building but it's not capable currently of being so occupied."

That doesn't deprive it, in our view, of historic value. But the confusion that might arise in an owner's mind if one were to say we need a demolition control permit, even though the expiry of the 180 days has occurred under the heritage act, I think can be cured quite readily through this amendment to the heritage act that would make it apparent to the owners of designated residential or non-residential properties that if they wish to proceed without the council's consent and without a heritage easement agreement, they shall obtain a building permit to replace or change the designated building and wait 180 days, so we don't go kind of in a circle between the heritage act and the Planning Act for residential properties.

I have my heritage coordinator here today as well. He is much more briefed on the particulars of the inventory and the specific buildings in Richmond Hill, both designated and on the inventory, that are sought to be protected in this way.

I simply reiterate that legislative counsel has reviewed — Mr Klees, I'm so obliged — the wording of the bill. It is in identical language to the special powers preserving heritage buildings in other municipalities.

In Richmond Hill, by virtue of being an original village, 125 years since incorporation only, we simply seek that like protection.

The Chair: Mr Duncan, did you wish to make any comments?

Mr George Duncan: Yes, I'd like to make a couple of comments. I'm very pleased to be here today. I wanted to say first of all that Richmond Hill, according to Statistics Canada, is actually the fastest-growing large municipality in all of Canada. You can imagine that puts tremendous pressure upon our heritage resources when growth is progressing at such an unprecedented rate. We find ourselves constantly scrambling to try and stay ahead of the process, and not always successfully.

Our designated buildings are a cornerstone of our community's character and we feel that under the current legislation we have only limited powers to protect them.

What we are hoping to achieve with the special legislation is to enable us to prevent the creation of speculative vacant lots. In other words, if someone purchases a designated building and then applies for a demolition permit, with no particular plans for the property, in order to create a vacant lot, that creates a hole in the fabric of our municipality that we wouldn't want to see happen. It really is a loss to us to see a building destroyed unless there is a replacement building being put up.

This is one of the other reasons why we feel it's very important to have this additional power and we ask for your consideration for that today.

I certainly would be very happy to answer any specific questions anyone might have on our heritage resources or our preservation practices in the town.

The Chair: At this point I would ask, are there any interested parties who wish to speak to this bill? Seeing none, we now turn to the parliamentary assistant, municipal affairs, MPP Ernie Hardeman, for comments on behalf of the government.

Mr Ernie Hardeman (Oxford): I would point out, as was pointed out by the delegation before us, that this is not a new bill or not a new type of bill. In fact, the first one was in 1987, when the city of Toronto got identical legislation. This committee dealt with one as recently as 1996 for the city of Kitchener, although the city of Kitchener did have some slightly different parts to the bill, but it was a similar type of legislation: to amend the Ontario Heritage Act for purposes of preserving buildings that did not fall under the residential class under the Planning Act. We appreciate the efforts that the town is making in preserving those historical buildings.

It has been spoken to a number of times that the Ontario Heritage Act is being reviewed and looked at. It has been suggested that upon that review we would make these changes so it would apply to everyone, as opposed to going through the independent process each time. But that not having been done yet, we commend the city of Richmond Hill for coming forward with this proposal.

As the bill was circulated, we have no objections whatsoever to the bill. I would point out that during the process of the circulation there was a request for information from a private individual from Richmond Hill, but since the bill has been concluded, the committee was not informed of them wanting to make any presentation. I have to presume that the bill in its present form was acceptable to all those it was being presented to. Again, the ministry has absolutely no concerns with the bill and we recommend its approval.

The Chair: We now turn to questions or comments from committee members, questions to either the applicants or to the parliamentary assistant, beginning with Mr Leadston.

Mr Gary L. Leadston (Kitchener-Wilmot): Just some clarification to Mr Hardeman. You're correct that the city of Kitchener passed, through this committee, sim-

ilar legislation to deal with heritage properties in their community, and now we have Richmond Hill; perhaps there are others. You indicated that the act will be amended to alleviate the concerns of municipalities so they don't have to go this circuitous route to seek protection for their heritage properties in their municipalities. Is there a time frame when this is to occur? Obviously, this is an expensive undertaking for the municipalities, as it was in the city of Kitchener's case. It was very time-consuming and demanding on the resources of the heritage staff. Is there a time frame, Mr Hardeman?

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Mr Hardeman: Mr Chairman, I cannot look into the future, so I don't know whether it will or at what point in time it may be concluded. My understanding is that the ministry is looking at the act to see whether that and a number of other changes may be appropriate. I'm not aware of any timeline as to when that would be completed.

Though we've had a number of applications of this type of bill, particularly in urban centres, to protect the historical nature of what used to be a small village and has now become a large urban centre in the province, the implications of this type of legislation may be different there than it could be in some other parts of the province where there were different circumstances. I think the ministry is looking at whether it is appropriate to put this type of legislation in the Ontario Heritage Act and cover the whole province or whether the most appropriate way to deal with this may very well be, as is presently being done, for those municipalities that require this type of protection to apply for a bill so it fits just their municipality.

Mr Tony Ruprecht (Parkdale): I just wanted to make a comment, Mr Chair. We've been through the Red Tape Commission and most members of the Conservative Party certainly agree that we want to save some time now.

We've raised this issue in this committee on a number of occasions. It goes back at least over a period of two years now. I know you, Mr Chair, have made some comments on this occasionally. I think it moves too slowly. We have various municipalities coming before this committee, spending their time, spending a great amount of resources and money to come here and essentially making their point and getting a nod from the provincial government.

I would therefore make the comment to the parliamentary assistant that the turtle hopefully will speed up, and by the time we meet again there certainly should be a recommendation through you, Mr Chair, or through the parliamentary assistant, that it is the will of this committee to ensure that these cases in terms of the heritage act be speeded up. I hope that you will make the recommendation. If not, then this committee should make that recommendation so we can save some time, money and resources.

The Chair: Any further questions?

Mr Derwyn Shea (High Park-Swansea): I'll direct my questions to the applicant and this coalition. There is an understanding that, with what you're asking, whether council wishes to expedite an approval or not, it cannot do anything prior to 180 days.

Ms Kowalishin: Yes, if I may. This protection, at least from the municipality's perspective really is only triggered in circumstances where the council has refused consent to alter or demolish and no heritage easement agreement has been entered into.

It's in those circumstances where we've not been able to come to terms, although we continue to try, we always try, that the 180-day period and the issuance of a building permit would stand in an owner's way.

Mr Shea: Notwithstanding that, a spectre that always haunts inner cities is the prospect of owners that may become so disillusioned with a process that they may in fact walk away from a property and leave it boarded up, which is not something that either heritage or good planning would want to happen.

Ms Kowalishin: Correct.

Mr Shea: There is a concern about that and I presume you've at least cautioned your council to understand that there is a downside.

Ms Kowalishin: Quite so. Further, I think that the dictum of the Ontario Municipal Board on demolition control appeals to the board, which can be applied for by any property, is germane. What the board has said, and I was on a couple of those cases, is effectively this: However historically valuable the structure of the building in question may be, if it's structurally unsound then it shall be demolished and the demolition permit would, of course, issue. I have advised my council and my heritage adviser of precisely that.

Mr Frank Sheehan (Lincoln): Following up on what you've just said, does the owner of that property have to go to the OMB to get the permit to —

Ms Kowalishin: No. The owner is entitled to do so under the Planning Act, but the owner would also be entitled simply to apply for a demolition permit. The legal advice that would be given to the buildings commissioner receiving that application would be that if a building is so unsafe, for instance, that it cannot even be insured, there's an obligation, quite apart from whatever other value the building has, to issue the demolition permit. Having said that, the owner is nonetheless entitled, should there be a lapse of more than 30 days under the Planning Act from the issuance of demolition permit, to go to the OMB. The OMB's caseload and scheduling are such that the owner could be before the board at a hearing within three to four months. Maybe that's a bit of a time lag.

In a nutshell, there are remedies available to an owner, but there's also a recognition in Richmond Hill as to the fact that demolition permits cannot be withheld in serious cases of unsafe buildings.

Mr Sheehan: I have a problem. Maybe the problem's with my memory, but we've had about a dozen of these in the last couple of years. It seems to me that you've added a new wrinkle to this, that after the 180 days you still have to get a building permit.

Ms Kowalishin: Correct.

Mr Sheehan: I stand to be corrected, but those previous bills we passed didn't have that in, I don't believe.

Interjection: Your memory's wrong.

Ms Kowalishin: They did. The model for this, the prototype bill, is the city of Toronto's 1987 special legislation.

Mr Sheehan: I just didn't recall it. Thank you.

The Chair: Back to Mr Shea for a second question.

Mr Shea: Not a question, Chair; I simply wanted to indicate that it is appropriate to support the bill. There is precedent. I share the concerns other members have expressed that we have repeatedly asked the ministry for some response and advice on these and other legislative changes. I will not hold the current parliamentary assistant totally accountable for this issue; one of his former associates who occupied that position equally lobbied on behalf of this committee, with the same degree of success this parliamentary assistant may have had.

I hope we will see some of the reports we've asked the ministry to bring forward to this committee for consideration: the way to change and expedite some of the process so that municipalities are not required to go through all of these hoops all of the time. At least there might a reporting out on that; it might be helpful. I know the parliamentary assistant is sympathetic with that, given his significant urban experience, or at least municipal experience.

Finally, having heard the caution from my distinguished colleague Mr Klees and knowing he means what he says, that he has read every word, and trying to preclude him proving that, I would hope we might have speedy passage of this, Mr Chairman.

The Chair: Mr Klees, did you have a comment or question?

Mr Klees: With your permission, Chair, I'd just like to say that I want to commend the town of Richmond Hill for the work they've done in bringing this forward for the work of the heritage coordinator. Knowing the town as I do, there are some magnificent buildings that deserve to be preserved for future generations. I also would like to add my comments and encourage the ministry to move forward so that other municipalities don't have this same hurdle to overcome. I would ask my colleague Mr Sheehan to add the weight of his Red Tape Commission to that initiative as well. I thank you for the opportunity to be here at this committee and look forward to the endorsement of this bill before you.

Mr Hardeman: I too want to commend the city of Richmond Hill for all the work they've done in putting this act forward. As we hear the comments about how the committee or the government should expedite and move this same thing along more expeditiously for all the province, I'd put forward a caution. Every time one of these bills comes forward it's being brought forward by a municipality to preserve their historical significance, and I fully support that, but I would caution that every time one of these bills gives an ability for a municipality to deal with that, we are taking away certain processes and things people can do with their property today that they no longer will be able to do when the act is passed. So the answer may not be expeditiously to just say, "This is the way it is in all of the province," because that may not positively impact society in general as we had hoped.

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Until we find that real answer, I think this is the way to do it. As Mr Klees suggested, when they get to this committee and they are this supportable, we should immediately get on with the vote and pass this into legislation so Richmond Hill can protect their historical identity.

The Chair: I may have a final comment or a question from Mr Shea.

Mr Shea: I've been provoked to the response by the parliamentary assistant. I understand his comments and support them, but he misses the point I raised; that the committee at least would like to see a report from his ministry on the status of a number of requests we have made for the expedition of certain kinds of changes. It would be nice to at least see where we're at, and if the minister does not seem to be favourably disposed to granting the authority we're asking for in some instances, just a simple explanation might help.

There have been a number of incidents over the last three years or more where we've said: "Why are we still doing this? Why is this still in the track? Can we find a way to expedite that?" The parliamentary assistant makes a very reasoned response in this instance, so I don't oppose that on principle. But I think the committee — and other members have expressed the same concerns — perhaps might like to see a small briefing note that we could have some discussion of, or at least take some comfort that the ministry is in fact wrestling with these issues, as I'm sure it is. That's all I'm asking.

Mr David Caplan (Oriole): I just want to see a fair fight, no rabbit-punching between the men. I'd certainly recommend that we get on to dealing with the matter at hand.

Mr Ruprecht: Just a quick response to the parliamentary assistant. All the comments that have taken place on this committee over the years are now funnelled to you, and I think there should be at least a statement from the ministry of what they've done with all the recommendations we've made that came through the Chair. If you're not quite willing to give us a report, I recommend that you at least give us a statement of what happened to all the recommendations that have come before this committee, so it doesn't look like we're one black hole and everything is going into the sack and nothing comes out.

I think it's quite reasonable, when you talk about the Red Tape Commission, that there should be a connection or there should be some kind of a cooperation between the Red Tape Commission and what goes on in this committee so we can save some time and money.

The Chair: Going back to this bill, Bill Pr23, are the members of this committee ready to vote? We will be voting on An Act respecting The Corporation of the Town of Richmond Hill, sponsored by MPP Klees.

Looking at the various sections and in keeping with tradition, I wish to collapse the first 10 sections. Shall sections 1 through 10 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Yes.

I wish to thank the applicants and our sponsor and declare the first order of business closed.

Ms Kowalishin: Thank you very much.

ONTARIO ASSOCIATION OF CERTIFIED ENGINEERING TECHNICIANS AND TECHNOLOGISTS ACT, 1998

Consideration of Bill Pr25, An Act respecting the Ontario Association of Certified Engineering Technicians and Technologists.

The Chair: We will now deal with Bill Pr25. I ask MPP John Baird, Nepean, sponsor for this bill, and the applicants to approach the witness table. Mr Baird, could you provide introductions and perhaps a brief comment.

Mr John R. Baird (Nepean): Thank you very much, Mr Chair and committee members. I'll just speak for a few short moments and then turn it over to representatives of the Ontario Association of Certified Engineering Technicians and Technologists.

I'll just say one thing at the outset. Our community college system is a tremendous resource in Ontario, and I think the bill before us this morning is an affirmation of the skill sets that so many young people get from our community college system. In my constituency, Algonquin College has a terrific technology program in a whole host of areas. This system has developed over the last 25 or 35 years, and the bill we're going to be discussing this morning represents the qualifications and the standards coming out of that community college system. It's in that light that I'd like to turn it over to representatives of the association.

Mr Bruce Wells: Thank you, Mr Chairman and members of the committee. I'm going to make a couple of very short comments of introduction and then I will introduce our president, Angelo Innocente, to in effect explain what we're doing here.

It's interesting to recognize that in the House today we have a number of representatives of the engineering and applied science design community. I'd like to take just a couple of minutes and indicate to the committee some of the members who are in this room, which I think is quite meaningful and important.

First of all, we have here the president of the Canadian Council of Technicians and Technologists, Mr Fred Lougheed. Fred is a CET, a past president of OACETT. Fred represents all the technicians and technologists across Canada and has been doing some very interesting work on behalf of technicians and technologists in Canada at the international level.

Also in the room is Mr Stewart Baxter, the chairman of the Canadian Technology Human Resources Board. Mr Baxter is in charge of the organization that puts together all the standards for technicians and technologists across Canada. He is also the co-chairman of the Professional Engineers Ontario-OACETT joint management board.

In the room as well are representatives of Professional Engineers Ontario. Mr Walter Bilanski, the president, is here; Laurie MacDonald, the registrar and senior staff officer; Mr Ted Wisz, also co-chairman of Professional Engineers Ontario-OACETT joint management board. As well in the room we have representatives of the Ontario Association Of Architects. Brian Watkinson, their executive director, is here. Also here is Arthur Tims, the executive director of the Ontario Association Of Landscape Architects. Brian Hay of the Association of Registered Interior Designers of Ontario is here. The Association of Geoscientists of Ontario is here. I see Dennis Bailey and his people from the Chemical Profession of Ontario.

All of these people are here either to support this legislation or, in some cases, to at least indicate that they are not opposed and to give us best wishes.

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I should also pass on the best wishes of the president of the Consulting Engineers of Ontario. As some of you may know, the Construct Canada program is on today. They have a very major program there and he has passed along best wishes. We work very closely with consulting engineers. Indeed, 40% of the membership of the organizations that make up the Consulting Engineers of Ontario are technicians and technologists.

At the table here with me I have Mr Stephen Fram. Stephen, of course, was active in the Attorney General's department, is now retired, and is a consultant to OACETT. Margaret Nelligan is with Aird and Berliss, and Margaret is OACETT's legal counsel. Beside me is Angelo Innocente, our president.

Let me just make the comment that I doubt if you have had this number of representatives in the room supporting an organization, and to a very great extent you have as well in this group a combination of the engineering and design team.

I should also mention another member of that team, the Association of Architectural Technologists of Ontario. Mr David Hornblow and Mr Peter Adams are here. I understand they will not be supporting our legislation.

Before I introduce Mr Innocente, I would like to go on record as thanking Laura Hopkins, of the legislative counsel office, for the work she has done on our behalf. She would tell you she's just doing her job, but I want you to know it's a very professional job and we're appreciative of the work they have done. We're also appreciative of and I want to go on record as thanking the Attorney General's staff for the very quality work they have done with us, not only in relation to this but over the years.

With that, let me introduce the president of OACETT, Mr Angelo Innocente. Angelo, when he's not working for

OACETT, is the senior project manager, vice-president, principal and director of MTE Consultants Inc in Kitchener-Waterloo, Ontario. He will talk to you for a few minutes about what we're doing with this legislation.

Mr Angelo Innocente: Thank you, Mr Chairman, Mr John Baird, sponsor of the OACETT Act, 1998, members of the regulations and private bills committee, and ladies and gentlemen.

OACETT: the technology professionals in Ontario. OACETT is a non-profit, self-governing professional association representing some 20,000 engineering and applied science technician and technologist members in Ontario. We have over 557 charter members, most with over 40 years of membership in the association.

OACETT was founded some 41 years ago, in 1957, incorporated in 1962 and, with the active support of the Ministry of the Attorney General, received royal assent in 1984 under the current OACETT Act. This act recognizes OACETT as a professional association whose main objectives are to establish, maintain and enforce high ethical and professional standards and to grant registration, membership and protected titles to such persons who meet the standards of the association. Since 1957, OACETT has certified more than 50,000 members to a consistent, nationally accredited academic standard, achieving national and international recognition and transferability of credentials.

Through our national association, CCTT, the Canadian Council of Technicians and Technologists, protected titles — CET, CTech and AScT — are recognized professional designations in the North American free trade agreement, allowing our members access to these markets as qualified and competent professionals.

We are before you today to amend the OACETT Act, 1984, with the new OACETT Act, 1998. Knowing that your time is limited, I will direct my comments to two major areas of change: the description of work and the proposed new title designations.

Why does OACETT want to define a description of work for certified engineering and applied science technicians and technologists?

Many Ontarians lack knowledge and understanding about the engineering team concept and the different role each of the practitioners play in the application of engineering, science and technology. Students considering careers in the technology field are often confused and misdirected about what they want to do, what they can do, what education and training they need, what the role of the community college system is, and, "What professional role can I play in the technology field?"

Employers are equally confused about what type of employee practitioner they really need to perform a certain job, what skills and education they need, and how they can compete on a global perspective.

Many times, this uncertainty leads to underutilization of educated and trained community college graduates, who are qualified and competent individuals who can do the job. Sometimes this uncertainty results in a reliance on individuals who are not fully trained or competent and who may create health and safety concerns because they do not have the education or specific training needed to do the task. Providing a clear definition of work for certified technicians and technologists is an important step towards reducing the ignorance and confusion within the workplace.

If Ontario students, employers and industry are to flourish, they will have to be more knowledgeable and understanding of who does what in the engineering, science and technology fields. These revisions to the act are one step towards that understanding.

For over 40 years, certified technicians and technologists, through their employers or as individual practitioners, have provided competent technological services to the public and industry in accordance with government-accepted practices, codes and standards, or within recognized industry standards, or within an engineering team concept with direction provided by professional experts.

A description of work for engineering and applied science technicians and technologists was developed by the PEO, the professional engineers, and OACETT, our joint management board, and on March 20, 1998, unanimously endorsed the description of work for inclusion into the new OACETT Act you have before you.

Why new professional designations and titles? The primary intent is to identify engineering and applied science technologists who have special training and experience who currently may be restricted from doing such work by legislation, regulation or codes but who may qualify to do certain work under this special designation.

OACETT's original choice for this special designation was professional technologist, the term "PT," a designation currently held by OACETT under trademark certificate from the Intellectual Property Office of Canada. Alternative designations identified in our proposal include the titles PCET, professional certified engineering technologist; and PAScT, professional applied science technologist. These reserved titles would be used in future by qualified and competent members designated by OACETT's registration board, IETO, the Institute of Engineering Technology Ontario.

With over 40 years of experience, OACETT's certified members have taken the challenge and performed with excellence. Members are fully accountable under the OACETT Act, its bylaws, under defined council policy, our code of ethics, rules of professional conduct, a complaints committee, a discipline committee, and with appeal through a discipline appeals committee and of course through the Ontario Court of Justice, the Divisional Court.

Certified technicians and technologists and applied science technologists are qualified, competent and responsible members of the engineering, science and technology teams. OACETT members have a designated membership stamp and access to professional liability insurance. They "hold paramount the safety, health and welfare of the public, the protection of the environment and the promotion of health and safety within the

workplace." This is referenced directly in our bylaw 18, section 7.1.3.

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As an association, OACETT is confident the definition of work and updates to the protected titles will help Ontario to maintain itself as a world leader in providing competitive and meaningful solutions to the technology needs of society, while assuring responsible and continuing protection of the public.

As a postscript, OACETT would be less than candid if it did not share with you its vision of a much different regulatory system for engineering and applied science design professionals than now exists. In November 1996, OACETT made a presentation to PEO that included a document entitled Towards the Future: Is It Time for a Partnership of the Applied Science and Design Professions Organizations? This document was written to stimulate discussion among the professional associations in the engineering and applied science design fields, to explore with each other, its members and the Ontario government the usefulness and desirability of establishing a partnership of professions formally linked under an umbrella legislation.

The intent of this umbrella legislation will be to regulate and license all design professionals within the engineering, science and technology fields, much as the current Regulated Health Professions Act, 1991.

Perhaps it's time to consider formally investigating such an umbrella legislation. OACETT is convinced that real protection of the public and efficient utilization of Ontario's educated and trained workforce point to the need for a better form of regulation. We pose this question to the government of Ontario and await some direction from the various ministries.

At this time we are prepared to answer specific questions about our submission.

The Chair: Thank you, Mr Innocente.

At this time I would ask if there are any other interested parties who wish to speak to this bill.

Mr Peter Adams: My name is Peter Adams. I am the executive director of the Association of Architectural Technologists of Ontario. Frank Monteleone, from Cassels Brock, is our legal counsel. Our president is David Hornblow.

This morning I'd like to begin by simply saying that we commend OACETT for taking the initiative to fully consider its future and also for putting forward many of the points they did this morning about the necessity for all the different professions within the building industry to come together and for legislative change to take place. We have been an active participant in that process and would very much welcome it.

However, this morning we're here to talk about Bill Pr25, specifically the concerns we have for this document and for our membership as a result of this document. I will just draw your attention to the one-page sheet before you, called Overview on Bill Pr25.

Just running down that page, the imprecise legal drafting of the document concerns us somewhat. There are already engineers acts and already an Architects Act in Ontario. By creating a parallel document that will also detail engineering practice in Ontario to the degree that it does, it represents an inefficient attempt at resolving the problem of an area of practice for engineering technologists and, frankly, results in increased red tape.

Additional to this concern of increasing the red tape and certainly paramount is the effect it's going to have in the industry. Down the road, when changes do have to happen, it's another act that has to be brought into the discussion and considered. When the public is looking to figure out how the different professionals in the industry interact, there is a second document now that is going to detail engineering practice. That's a major concern to us. We would certainly caution the committee to take that into account as they move forward with the discussion today.

Additional to this discussion would be the description of work itself, the wording that's contained in it. I'll draw your attention to, in the briefing book we handed out to the committee members, appendix A. That's a letter from the president of OACETT published over a year ago, where he draws on an excerpt from a letter he wrote to Professional Engineers Ontario at the time, where the clear intention was to have a clear description of the work performed by these professionals. The document we have today, Bill Pr25, does not achieve that.

The next area of concern for us is in the titles that are being put forward. OACETT is an engineering association, an engineering technology association, specifically, and the six titles they're putting forward today we feel will add to industry confusion. We don't understand why there is a need to bring forward the certified technician when there is already a certified engineering technician in their list of titles.

Frankly, I don't think it meets the standard of being clear and precise, that what you are is what you do and what you say you do is what you do. We're certainly not opposed to groups reviewing their titles acts. This draws upon the fact that OACETT did have an act passed in 1984.

One of the other quick areas I'd like to touch on is simply the fact that we had very short notice in considering the materials that were given to us. We only received them late last week.

As far as the materials we've presented to you today are concerned, they speak for themselves, and we'd certainly entertain other questions.

Mr David Hornblow: My name is David Hornblow. I am president of the Association of Architectural Technologists of Ontario. I am here representing not only as the president of the association but also as a member of the association.

I understand what OACETT was attempting to do with this legislation in terms of clearing up a lot of muddy areas between disciplines and areas of work and things of that nature. Again, I applaud them as well for attempting it. But we feel strongly, and several of my members who have come out to attend today feel strongly, that they haven't done so. In fact, when you look at the area of

practice or the description of work, it often describes what an architectural technologist does and is. Again, that relates back to adding further confusion into the industry.

OACETT has mentioned in their own brief to you today that they wish to clear up that ambiguity, that confusion within the industry: who does what. This truly doesn't do that in that respect, and we would certainly love to sit down with OACETT and other groups to start hammering out that aspect of it.

As Peter Adams mentioned, the engineers act and the Architects Act currently describe what is architecture and currently describe what engineering is. Further adding another level, without dealing with those initial two acts, would add more confusion from a legislative point of view, when and if there is the one body that licenses professional designers. As well, it will not lead to any clear resolution of what both our associations face within the industry in terms of who does what and who is capable of doing what.

From the students' aspect of it, students who graduate from an architectural technology or an architectural technician program clearly know that they need to be registered with the Association of Architectural Technologists of Ontario. We've gone to great lengths to communicate with each of the colleges throughout the province of Ontario.

By doing so, we've had access to the students and further discussions with the students. We are one of the few associations that have actually taken the time to put the students on our councils so we can hear their concerns about what is happening today as well as what's happening down the road so that they have active input into as well as discussion of the matter. They have a voting right within the council to do so.

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That pretty well sums up what I have to say. I know that many of my members who are in attendance today and many who aren't in attendance today fear what this kind of document will do to their place within the industry as well as how to clarify who they are and what they do, that kind of thing.

I seriously hope that this committee can take a second look at this bill and, if not pass it outright today, at the very least tell our groups to go back and take a look at it and look at proposed amendments that would be agreeable to both sides of the issue.

The Chair: Thank you. Any further comments?

Mr Adams: Just to add that we would welcome an opportunity to consult with the sponsoring group on this bill and on the draft that we just received last week.

The Chair: No further comments? Thank you, Mr Adams and Mr Hornblow. If you wish, you may take your chair again in the audience.

Do we have an additional interested party representing another organization? I'll ask you to please identify yourselves and make some comments.

Mr Walter Bilanski: Good morning, Mr Chair and members of the legislative committee. I'm Walter Bilanski, president of the Association of Professional Engineers of Ontario. It is certainly a privilege to be given the opportunity to address you in this matter. Similarly to the architects, the Association of Professional Engineers of Ontario regulates the practice of professional engineering in Ontario. Most of our OACETT members work in concert with the professional engineers and in similar areas of practice.

We've had what I would consider an excellent relationship for over 30 years. As a matter of fact, I was on APEO council way back in the early 1960s encouraging OACETT to get organized and get the recognition they deserve. We have a joint management board which resolves problems between the two professions. Literally up until November 19, the professional engineers were in concert with the OACETT representatives. I was instructed to come to this committee and support their request.

However, on November 19 the title had been changed. The word "professional" had been introduced. We did not have time to discuss the matter satisfactorily at our council. The time was so short that we are going to request additional time so that the APEO council can deal with this matter through the committee. We have here with us our registrar and CEO of the Association of Professional Engineers of Ontario, Laurie MacDonald. I would like to have her deal with more of the details of our concerns. In case I do not have the opportunity to speak further other than on this minor aspect, which I consider minor — that it can be changed, it will be resolved — we would support the legislation that OACETT is asking for. May I then turn it over to Laurie MacDonald?

Ms Laurie MacDonald: I just echo that we are generally supportive of the proposed amendments, except that we do have some concerns about the title they're proposing to reserve, which is "professional" certified engineering technologists. Our concern is focused on the use of the adjective "professional" in conjunction with the provision of technical services, which are mostly related to engineering. We think there is some potential that this would lead to confusion among the public as to who is authorized to provide professional engineering services, which we regulate through our act and through a legislated scope of practice which is in our act.

That's all we have to say, except the fact that we've had very little time to review this. We only received this title approximately a week ago. We would like to continue our very good relationship with OACETT, and a very good dialogue that goes along with it, and have some time to discuss these things and resolve our concerns with them.

Mr Bilanski: If I may add, if it were possible that we be given extra time to deal with this matter in a satisfactory manner so we can come here hopefully in harmony.

The Chair: Thank you, Mr Bilanski, Ms MacDonald.

Are there any additional interested parties who wish to speak to this bill? I'll ask you to identify your organization.

Mr Brian Hay: Mr Chairman, my name is Brian Hay. I work with ARIDO, the Association of Registered

Interior Designers of Ontario. I am empowered to speak on their behalf. I'd like to advise you and the members of your committee and the Legislature that ARIDO supports this bill because it supports the philosophy and the direction of this government to reduce the regulatory burden on the people of Ontario.

ARIDO applauds the work of the Red Tape Commission in this regard. ARIDO believes that individuals, professionals and their associations need to accept and, where necessary, be given back more responsibility for their actions and conduct. ARIDO members work with the members of OACETT on a regular basis and find them to be fully professional, in the generic sense of the term, and responsible in the conduct of their business. We agree with them and many others in the field that the life, health and safety of the public are of paramount concern.

ARIDO also believes that the consuming public, the marketplace, deserves clarity among those they hire, when they look in the yellow pages or they seek to hire someone, that there is no misunderstanding as to the status or the qualifications of the people they seek to hire. We believe that the public deserves the quality assurance that a well-run profession can provide whenever they retain or acquire professional services. ARIDO sees this bill as promoting this. We therefore support the bill as it is presented.

The Chair: Thank you, Mr Hay. Any further interested parties? Seeing none, we now turn to the parliamentary assistant of the Ministry of Municipal Affairs, MPP Ernie Hardeman, for comments on behalf of the government.

Mr Hardeman: Thank you very much. As has been presented very well by all the deputants who spoke to the bill, there are parts of the bill that are very much in the vein of where everyone agrees with it: to recognize the professionalism and the abilities of the members of the organization. The proponents of the bill have circulated it to the ministries and have had discussion with ministries. The Ministry of the Attorney General is the one that deals with the licensing of the engineers and the architects. They have had considerable discussion with the applicants and have come to the conclusion that the bill, the way it is presently before the committee, does not infringe on any of the direction of the province and are not objecting to the bill.

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Similarly with circulation within our ministry and other ministries, there are no major concerns with the bill as it relates to the legality of existing professional regulated bodies such as the engineers and the architects. The ministries are not objecting to the bill.

Having said that, there are concerns with some of the wording that is in the bill that the committee may want to have some discussions about. That's not saying that all the concerns that were put forward by the ministries were addressed. They were addressed sufficiently to say that from a functional point of view it will work. The ministry recognized that this is the first time that this type of legislation would define the scope of work for the individuals. In the past, the title bills have been more to deal with just giving the titles than for defining the scope of work. The ministry originally had concerns that this might imply that not only would the bill define the scope of work but it would obligate the title to be the only person who could perform that work. It's quite clear that that's not the case. It defines the scope of work but doesn't restrict that scope of work to the title in the bill.

With that, we have no official comment one way or the other. We're not suggesting that the committee should not approve it. We're just registering no objections from the ministry.

Mr Ruprecht: No objections?

Mr Hardeman: No objections.

The Chair: Thank you, Mr Hardeman. At this point we turn to members of the standing committee for comments or questions to the applicants and to the parliamentary assistant. Mr Ruprecht, do you have a question?

Mr Ruprecht: I do, Chair. I was interested to hear the president of the Association of Architectural Technologists of Ontario, Mr Hornblow — and I want to clear this up somehow here — say that he appreciates that you tried to clear up this muddled issue of description of work. I'm not quite sure what else he indicated in terms of a muddled issue, I assume that the muddled issue is only the description of work, but there could be something else in addition to his idea of what else is muddled. I don't know what else could be muddled, and maybe he will speak to it later. My question is to any one of you, and maybe Mr Innocente could answer that. I'm looking at the letter that apparently said: "There's no attempt here to provide an exclusive scope of practice for our members but rather to enact a clear description of work that a certified member of OACETT currently does." My questions to you would be: (1) How would you answer the concern where Mr Hornblow says he agrees that this issue is somewhat muddled and should be cleared up; and (2) how did you resolve between the two of you the issue of clearing up the description of work?

Mr Innocente: Mr Chairman, I'll ask Stephen Fram to answer that question and then I may elaborate further.

Mr Stephen Fram: Mr Ruprecht, the bill only deals with OACETT members and therefore the description of work can only apply to OACETT members, but it doesn't give any special rights to OACETT members. AATO members in fact do, in connection with the design and construction of buildings, many of the exact things that are described about OACETT members, so this is not exclusive. In fact, there are members who are technologists and technicians who are not OACETT members or ARIDO or AATO members who do work within the ambit of this description because the description is in the OACETT act. So it does not confine AATO's work, it does not in any way prevent AATO from using exactly the same definition and it doesn't exclude AATO members from doing exactly the same work. It's just, for the purpose of explaining to a society that doesn't know what technicians and technologists do, that it's the first step in trying to clarify that there is this whole group of people

who do work within codes, within standards that are is vital to the work of society.

Mr Innocente: I want to elaborate further, and perhaps you may ask this of legislative counsel: Our understanding is that nothing within our act infringes upon AATO, PEO or any other act or members. In fact, it is not exclusive and you may want to ask that of a legal counsel, but that is the way the act has been drafted.

Mr Ruprecht: If I may just make one more comment, Mr Chair. I would like for you — probably Mr Hornblow will have a chance later on to respond to this as well, because I'm going to ask him the same thing, unless of course it comes up in discussion. At least to my mind, we have a number of organizations here who all agree that the issue of work and other issues need to be cleared up, and, in present conditions, it is muddled. I think there's consensus with all the organizations that there's a muddled situation out there. You've attempted to clear up the issue of work and other issues that are muddled. Can you explain to this committee, then, where is the deadlock that you cannot go beyond your attempt to unplug this dam of muddling?

Mr Innocente: The definition that we have in the act has been looked at for approximately two years with our counterparts at professional engineers. There are five sitting members from PEO and five sitting members from OACETT who have worked for approximately two years to put together this definition. This was not created over the summer holidays. This was a fair amount of work going into the definition so that it would satisfy professional engineers. It has been distributed widely to the science community, AATO and others. We have not kept this to our chest. This is a definition that has been worked on for a long time. There were some very minor changes that were made by legislative counsel during the summertime and none of those changes changed the intent. As Mr Bilanski indicated, PEO counsel has approved the definitions as their committee has. We think we have worked with other associations and industry to come up with what we consider reasonable definitions for the work of technicians and technologists particularly in the engineering and science community. Those are the members we register.

The Chair: Thank you. I have a question from Mr Hardeman.

Mr Hardeman: First of all, I neglected to mention earlier when I spoke, for the benefit of the committee, that there was a concern expressed by the ministry that since this was the first time that a description of work was included in a title act, that would possibly encourage or promote other title acts to be open to putting that in. The reason I bring that up is that during the previous presentation the committee was talking about trying to get rid of red tape and trying to get rid of the process this committee goes through on these types of hearings, and this in fact would present the possibility of encouraging a lot more of this type of thing. The reason I bring that up relates to my question that when we look at the bill and the description of work being so general and almost totally encompassing, does it really serve a purpose? As a private citizen about to embark upon hiring someone to do something for me, when that individual says, "I have a CET designation," what is it that I'm going to feel comfortable with that now I have hired a person who is very capable of doing that? If I read it from the act, that individual is capable of doing just about anything; they're not necessarily designated to a certain function. The description is so broad that one has to look very carefully to find something in this world that wouldn't be part of the scope of work that would be delegated to that authority.

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Mr Innocente: Those are fair questions. I'll answer them one at a time. Certainly the definition will be present in the private member's bill. We feel it's necessary. Certainly people would have more questions trying to understand what certified technicians and technologists and applied science technologists can do. Although the description may be reasonably generic, we register and certify members in 63 individual disciplines, so we cover a very wide range of members and members' skills. Each and every one of them has to go through a certification program. They all have to attain and maintain a national standard level. We take members and we measure them. We make sure they reach and attain a specific standard. So, we're comfortable saying that, as certified members, we can do this broad-based scope of work.

That also means that the individual member who takes on that responsibility will have the responsibility to decide to what level he or she can accommodate and do the work. Certainly we have that barrier now. We have those levels now in the workplace. When it's time to turn it over to a professional engineer, an architect or whatever the case may be, another professional, our members have always done that. We have never found ourselves in a situation where we've stepped out of line. We, as professionals, at least know when we've reached our limit and when it's time to get the help of an engineering team, a science team, an environmental specialist. We work with lawyers, developers and other professionals all the time. So, our members are qualified and competent to know the level at which they can practise.

I think what Bob was trying to show you was that this is just a smidgen of the codes and standards that we work with every day. If I was to bring in all the codes and standards, I would fill this room.

Mr Hardeman: I want to make sure we understand. I'm not trying to suggest that the qualifications are not proper or that the technicians and technologists are not qualified or doing appropriately what they presently do. We're trying to clarify for the public what this discipline looks after. My question is, really, what does adding the scope of work do for me as John Q. Public?

Mr Fram: I was one of the architects, so to speak, of the Architects Act and the engineers act, two groups, two licensed professions with which OACETT members work. The law in Ontario says that unless a thing is given exclusively to another group, anybody can do it. The Architects Act sets out an exclusive practice for architects,

and the engineers act sets out an exclusive area of practice for engineering, and there are regulations that further set out specific areas for engineers and architects and other professions.

But when you see a definition — the definition of "architect," and the definition of "engineer" — the question is, what's left? The public is overwhelmed by seeing these definitions of design and management and so forth. It says to the student, "What can I do?" It says to the employer, "What can I hire these people to do?" It says to the public, "Can I hire this person to do that kind of thing?" This is directed at answering those questions. What is it that people, in this case OACETT members who aren't engineers or architects, can do? They can provide technical services within the framework of practices, codes and standards that are established or enforced under an act of Ontario.

Then subsection (2) says except where an exclusive right has been given to another profession. So, it says there's a building code; the part that isn't prescribed to the architects or engineers or both can be done by a technologist. It says that these OACETT members can provide "technical services within the framework of published standards in the applicable industry." Whether this is a chemical code, an aeronautical code or avian maintenance or avian design, they can do those things, provided someone else is not given an exclusive right to practise. They can provide technical services that require knowledge and background under the technical direction of a licensed professional.

This says there's a whole host of things that people who are the product of our community colleges can do. This is what they can do. Before, you'd say: "Aren't you just the handmaiden of an architect or engineer? Do you have anything you can do on your own?" The answer is that there's a lot, but nobody is going to find out unless there's a definition.

The Chair: Mr Hardeman, another question?

Mr Hardeman: I just wanted to leave that one for a moment and go to the titles. These are certified technician, certified engineering technician, applied science technologist and certified engineering technologist. When you look at the whole list, what is covered in "certified technician"? If you had "certified technician," does that not cover all certified technicians regardless of the discipline they're in, or is there something that would not be covered? One suggestion somebody made was, "What if I am a certified Maytag repairman technician?" Does that fit in there?

Mr Innocente: We currently have those as protected titles, the CET, the CTech and the AScT. The CET definition applies to both the certified engineering technologist and the certified engineering technician. The reason is that years ago our technicians were also certified engineering technicians. They essentially are grandfathered and will stay as CETs. All new technicians being registered by OACETT are registered as CTech, so they are certified technicians, and that includes engineering and applied science. So the grandfathering clause, the CET, technician, applies only to our earlier members. There are probably 1,200 or 1,300 of them. We chose not to strip the title away from them but to allow them to maintain that. That was in the 1984 protected titles; we decided to maintain it in the current one too. But those members are being grandfathered out.

Mr Hardeman: Going back again to public protection in the bill, are you suggesting that you're now going to the overall designation, so the public will not know whether they're a certified engineering technician or an applied science technologist? Would you just call them certified technicians, and I wouldn't know what they would be?

Mr Innocente: No. They are individual titles, depending on the discipline that they are registered in. If it's an engineering registration, then they are a CET, certified engineering technologist, or a CTech if it's an applied science area. They are either registered as a CTech, for the technician level, or an applied science technologist, for the technologist level. Those titles are very descriptive and very succinct, depending on the amount of engineering in their academic background and their experience versus the engineering.

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Mr Fram: The only new titles that are being sought are titles that begin with the word "professional." The other titles are titles that are already used and that there are stamps for and so forth. It's only the issue of whether the titles "P" and "AScT" or "PCET" should be granted to OACETT to give out to its members.

The background on these is that there are particular areas which, in the future, governments may want to license technologists in. The idea behind this is to have the title so that, for example, if government wants to exclude the technology work in an environmental cleanup — not the engineering or the geoscience, but the technology work — they would use the people who have a certain type of training. They would say that people with a PCET were the technologists licensed to do that kind of work. Before that, of course, OACETT would have to develop a standard, which the government agreed to, that these kinds of educated, trained and experienced people were the ones the government wanted to give that exclusive right to practise to. So the "P" is intended to be used only when the government has some licensing function it wants to confer on technologists.

There has been some problem with the "P." The professional engineers in 1922 were the first organization to use "professional." They used "professional" in connection with engineering to distinguish themselves from all the other engineers that existed, especially at the time. There were the people running trains, there were the mining engineers, who didn't measure up to the same qualifications. They chose the designation "professional engineer" to describe who they were.

Since that time, throughout Canada, with the exception of Ontario, other groups have taken on the title "P," probably because they were emulating the success of the Association of Professional Engineers. So, you have throughout Canada, with the exception of Ontario, pro-

fessional geoscientists. We have a report that wants to create a licensed group of professional geoscientists in Ontario. We have in Quebec the use of "technologie professionnelle," using the title "professional" for their technologists who are equivalent to this group we're trying to deal with.

There was a problem raised by the government. When we were first drafting the bill, we circulated it to the government ministry, looking for the title "PT," professional technologist, which would have settled the problem. However, if it was raised — and it's certainly a point to think about — in describing themselves, in a letter seeking employment or an application, as "a very professional technologist," have they violated the PT, if in fact you use PT in the title, which is a reserved title? So, is it too generic?

The group of government public servants thought it was too generic. In an effort to accommodate, we said: "Let's try PCET. We already have CET. It's sort of like putting 'fellow' on the front. We'll just put a 'P' on the front of the things we already have, and that shouldn't upset anybody." But in an imperfect world, it seems like it upset, or at least concerned, the Professional Engineers of Ontario, because there's "engineering" in there and it's not just PT, which was OK with them. That is where we're at now on the titles.

The Chair: Mr Wells?

Mr Wells: I'm going to pass at this point, Mr Chairman. I was going to make a comment, but I think it has been covered.

The Chair: All right. Are you finished, Mr Hardeman?

Mr Hardeman: I have just one final question on that, on the professional part of it. I think you explained it fairly well. Again, as a member of the general public, when I relate the word "professional" to beyond the technology or technician stage — not you as a professional organization. There's no doubt that when I see the initials for a professional engineer, I relate that to a profession. When you include in your title the word "professional," is there a potential for misleading an uninformed individual like myself, leading them to think it's different than it is?

Ms Margaret Nelligan: If I could speak to that, perhaps part of this is not so much a legal answer, but part of it is. The word "professional" was very carefully chosen. In terms of using "professional" in front of the words "certified engineering technologist," it's very clear that the professional is a certified engineering technologist. What we're looking at here is really "engineering technologist."

If you look through all the dictionary definitions and legal definitions — and I've had many students in my office pore over it to determine if there was any problem with it — "technologist" often comes up with the same definition as "professional." There's no standardized meaning for either term so as to make them inconsistent or to lend to one a specific meaning that the other cannot have.

In terms of engineering technologists — and I'm speaking to background here that I've been provided by others — OACETT was created at the instigation of the professional engineers as long ago as the 1950s, so engineering technologists have been recognized as engineering technologists since that time and by statute since 1984. It's very clear, in using "professional certified engineering technologist" that what is the professional category here is an engineering technologist; it's not an engineer.

"Engineering technologist" is a well-recognized term and is recognized by statute. In that sense, when it's looked at in context, it's not, in our view, confused with professional engineering, because "engineering technologist" is a well-understood term. It's also our hope that, in conjunction with the rest of the legislation as a whole, it will be even more well-understood with the description of work that's contained in the statute. That's for future and better understanding. But it is a recognized term within Ontario as a designation.

Mr Hardeman: I'm not disagreeing with you. I'm not even saying it's an inappropriate definition. But if we're going to use the word "professional" in its generic form as a descriptive term as opposed to a title — and that's really what you're suggesting — then is the converse also true, that the other class, a certified engineering technologist, is not a professional?

Mr Innocente: I can see your concern with that. I've been certified as a technologist since 1970, so I've been practising for 28 years in the business. As Bruce indicated, I'm a partner in a firm. We employ engineers, technicians, technologists. I have always considered myself a professional.

You're right. Some members may not necessarily like having to go to the PCET, if and when the time comes, but the government probably have a responsibility, if they expect to allow technologists to do certain things under demand-side legislation, to have a right to a special designation for those individuals. That really is the reason we would like that title protected. It may be the same CET that was doing the work yesterday, and if he meets the criteria to do the work under that special circumstance, then he may be re-registered as a PCET.

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Mr Tony Martin (Sault Ste Marie): I think that conversation was valuable and certainly added to my concern that there needs to be some further discussion here.

You have said to us that you've not kept this close to your chest, that you've been out there discussing, but we've had two professional groups before us this morning suggesting otherwise, that they were surprised at the end of November to have received the package and then not to have had any opportunity to sit down and discuss this further.

I think that in the interest of the public and the practitioners out there it's only right that we take the time now that we're this close. I didn't hear the two groups that came with some concerns being totally opposed to what you're doing here. I think they support the evolution of these acts as they govern members, but there are still some

pieces they have some concern about, which they're convinced you could resolve with some further discussion and sitting down, and perhaps bring a piece of legislation back here before us that then would have more of their support.

I was going to suggest that maybe we entertain a recommendation and change by the architects that would satisfy them, but having had the professional engineers come as well, it seems that might not cover their concerns. I suggest that we ask this group to take the time that is necessary to have that discussion and perhaps have this back to us as soon as that happens, with some recommendations that hopefully would satisfy the groups that have come before us. Is that a problem for you?

Mr Wells: I would make the comment personally that on the concept of the idea of this legislation coming out a week or 10 days ago, I should clarify that the first draft of this came out in April to the Attorney General with copies to the engineers, the architects and the architectural technologists, and that this legislation has been going through drafts since that stage. The change from "professional technologist" to "professional certified engineering technologist" came as a result of the meetings we had with your interministerial committee, who expressed a concern at the time that the "professional technologist" designation was too generic, so yes, that was changed, and that was changed near the last draft because that interministerial committee meeting was about a month ago. So there were changes in that.

My sense is that what we have tried to do is to discuss this with virtually every group in the province. We have tried to get to most MPPs, to MPPs who handle departments, to various people. I think we talked to about 90 people about this particular thing. Some of the concerns you have registered here are part of the compromise between the architects, the engineers, OACETT and others in terms of finding that something is there. I think we're pretty close. The one question I would ask is; does anybody have something you would like to put in that place other than 'professional'? I have soul-searched that one very hard. I've tried an awful lot of designations and titles. I haven't come up with one that people seem comfortable with.

Mr Martin: If I might, perhaps by way of some suggestion, and I'd want to hear from the professional engineers as well on this, there is a recommendation made by the architects that perhaps we could table and have a discussion about. If you like, we can do that.

I would move, then, that subsection 12(2) be amended by the addition of the underlined words so the subsection reads as follows, and this is how it would read:

"(2) Subsection (1) does not authorize a certified technician, a certified engineering technician, an applied science technologist, a certified engineering technologist, a professional applied science technologist or a professional certified engineering technologist to provide services that, under an act of Ontario or of Canada, only a licensed member of a profession or," and these are the underlined words, "a registered member of an association is permitted to provide".

They would have us go on to add the follow subsection which would be:

"(3) A person who contravenes any provision of this section is guilty of an offence".

I table those two amendments and ask for some comments perhaps from the groups that have expressed some concern here this morning so that maybe we can deal with this today instead of putting it off for another time.

The Chair: Thank you, Mr Martin. You have tabled that for purposes of discussion. As you know, if that was to be a motion after discussion we would do that during clause-by-clause. Secondly, we would have that written up and distributed to all members of the committee.

Following Mr Martin, Mr Hardeman, do you have a comment on this?

Mr Hardeman: Yes. The question, to Mr Martin, is, was that the amendment that was put forward by —

Mr Martin: By the architects.

Mr Hardeman: OK, because I think it's very important that if we're looking at that extensive an amendment, we all have it before us to make sure that it does what it does and that the impression or the need for it is clearly outlined.

Mr Wells: We certainly would want to comment on that amendment. We are not happy with that particular amendment and we have a sense it confuses the issue further than it clarifies it. I'd ask Mr Fram who has actually done some research on that amendment to make some comments on it for us. We actually did a written brief on this. You might like to make some comments, or Margaret might.

Mr Fram: Actually, Margaret Nelligan has worked with legislative council to address the issue they're attempting to address in that and also an issue raised by the architects. So I think there's another resolution of the issue.

Ms Nelligan: We took a look at that proposed amendment, which we had access to prior to today's committee meeting, and understand that part of the question the architectural technologists are raising with respect to their reference in section 12(2) to the word "profession," as well as another technical legal comment that was raised by the architects' association, if I can just clarify that there's a distinction between the two groups commenting on this section, is that legally it perhaps was not addressing all those persons who could be licensed, because corporations and partnerships may be licensed. In conjunction with legislative council in advance of today's meeting, we proposed an amendment that we think solves both of those problems or issues and addresses the architectural technologists' concern.

Also, in terms of the proposed amendment by the architectural technologists, we believe their proposed amendments confuse the issue because they appear to address this legislation as if it's right-to-license legislation. This is not right-to-license legislation; this is essentially right-to-title. The description of work does not

compel any person to do anything nor does it prohibit any person from doing anything.

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Therefore, it's not legally sensical to say that contravening the section is an offence. There's simply nothing to contravene. There's no prohibition and no mandated act. So subsection (3) of that proposed amendment, we believe, does not fit the part of their concern. The other part was subsection 12(2) and they had a concern that it was unclear whether someone was licensed only as a member of a profession. We proposed, working with legislative council, an amendment which I believe has circulated somewhere here that simply removes the references to "profession" and tightens up the legal drafting in that section.

The Chair: Before I go to Mr Shea, I may have cut off Mr Hardeman.

Mr Hardeman: Just a clarification: One of the comments when I was talking with committee member Martin about the amendment, and it was suggested that it was from architects as opposed to the architectural technologists, I'm not sure the architects would be necessarily supportive of or opposed to that since we haven't heard a presentation from them. I wanted to make sure the record was clear.

For the purpose of the discussion as was just mentioned, the proposal that was being suggested would be to substitute in subsection 12(2) of the bill and amend it by striking out "under an act of Ontario or of Canada, only a licensed member of a profession is permitted to provide" and substituting "only persons authorized under an act of Ontario or of Canada are permitted to provide".

Leg council looked at the amendment that was proposed and suggested this was a more appropriate way of wording that would, in their opinion, accomplish the same task. I agree that it would take some discussion, and in fairness to all the parties, everyone could see that amendment to make sure it does what it's intended to do and does not negatively impact the case for someone else.

The Chair: We have a second amendment for discussion. I now go to Mr Shea.

Mr Shea: I think it's an inappropriate way for us to try to resolve a very thorny issue now, in just a matter of a few minutes or whatever time is remaining to us today.

There are a number of central issues that obviously are focused in the debate today, not least of which was we had the question, "Are technologists professional?" You asked that in a number of different ways. It's a significant question. We are talking about scope of knowledge and skill sets. We are talking about public liability and accountability, and that's not only under law, but in terms of relationships, to the public and to the client.

I have to confess now that after listening to this discussion I have the spectre of three standing before me, designated as CT, CET and PCET, and trying to determine, "What do they do?" Then I have the other spectre of what I would call, in my old-fashioned sense of living in the world, really only three professions; actually only one profession, the others are upstarts and you know which one I'm referring to, obviously. I know Mr Martin would agree with me wholeheartedly in that regard.

I have the professional engineers, as we know, in layman's terms, saying: "What is this? There's a strange kind of confusion that's going on." I'm giving you just a lay experience from this. Behind that I have the awesome experience of, for example, nursing. In some ways I hear the echo of nursing going on right now when we had "registered nurse." Then we suddenly had a new designation emerge called "certified nursing assistant" or CNAs. Then there was the great debate that went on to say, "Let's drop the C and go for an R," so we go to RNAs. Then the great debate goes on. Then we find the movement going on within the profession, even with the nurses all trying to find their positioning within the function, saying, "Maybe we'll go to 'nurse practitioner'." Now we have medicine beginning to say, "Whoa, what's going on here?" and everybody's pushing the envelope in all different directions.

My ramblings are all focused on this whole issue of, where do we bring some clarity for the public as well as for the practitioners in terms of skill sets? I think that's very important. It strikes me as though the person sitting to my right, who has responsibility for red tape, and the parliamentary assistants for education and other areas, and governments of all sorts, perhaps ought to be giving some kind of consideration to what's happening within the structures of our professions in our provincial economy. I am not persuaded that I ought to vote for this today, I have to tell you categorically, because I have some concerns about it. I want to do the right thing. I want to make sure there's clarity to it, and I can't see the clarity emerging.

More than that, I have to ask a question of you: Even if this were to pass, and we have CTs and CETs — the descriptions have been helpful; you've really given me an understanding of where you're at in terms of trying to grandfather and deal with some of the new graduates. Then you add in the professional. You've been forthcoming enough to say there is some difficulty with that. I find myself asking, "On the other hand, could a professional engineer" — understand, I'm using my old-fashioned terms of the university graduate and the standards that are involved there — "act in the role of a technologist?" If so, I've got the lines blurring back and forth the same, I suppose, as an MD could practise as a nurse. It would be charming to see that, but I suppose that conceivably could happen and maybe, on occasion, does.

That's my confusion at this point and I'm not helped by the debate that's before me right now. I am helped only in the sense that there seems to be a sense that you're close to some kind of resolution. I would prefer you found the resolution and it could stand up to the, I hope, insightful review of this committee, and be your resolution rather than the committee trying to jury-rig or find some kind of immediate consensus: "OK, let's maybe go here; maybe that's the better solution." That's what troubles me. I'm not sure if you want to make any response to my comments at all. If so, may God have mercy on you — speaking on behalf of the first profession. Go ahead.

Mr Innocente: Mr Shea, I can appreciate your comments. Certainly, if you have confusion, that's why we're here today. We will try to identify and bring forward information so you will feel at ease. What I can reiterate is that we have worked with the closest professions that OACETT and our members work with: the engineers and the architects. We have worked with them for 40 years, and we have worked very closely for the last two, in drafting a definition and looking at the titles.

All I can tell you is that at this point professional engineers have indicated support for the definition. All they are saying is they have some concerns with the word "professional." I'm not sure what else they're suggesting. Nothing has ever been brought forward to us to indicate anything different than the "PT" that we've talked about, which has now been changed to "PCET" based on the interministerial committee meetings we had in early September.

We have met with Mr Sheehan and the Red Tape Commission. We have indicated that we see the definitions as clearing up some red tape and making much clearer what certified members of OACETT can do and do in the workplace. I'm not sure that has answered your concerns. All I can reiterate is that we have tried to work very closely with people. This minor amendment that we're talking about in 12(2) is very minor. We have no problems with it. Legislative counsel and our counsel have worked with that. We understand the architects are agreeable with that statement. We're not sure about AATO. All we can do is try to address the issues as we see them.

Mr Shea: So you would agree that a CET and PCET standing in front of me could be the same thing?

Mr Innocente: No. The CTech is a technician, generally a two-year community college graduate with a combination of academic and two years of experience qualifications; a CET or applied science technologist or three-year community college graduates, combination of two years' minimum experience. All our technicians and technologists, before being certified by OACETT, have a mandatory professional practice exam. They have the choice of a two-day seminar and an exam program that they must go through, each and every one of them. Our members are put through a rigorous program before they become certified with OACETT.

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Mr Shea: So a CT is two years.

Mr Innocente: The CTech is a two-year community college graduate.

Mr Shea: And a CET is three years.

Mr Innocente: Yes, three years.

Mr Shea: And the PCET?

Mr Innocente: The PCET would generally be a three-year community college graduate with more experience or specialty experience in whatever area. We may come to some agreement with the government in the particular demand-side area. It could be the building code; it could be the environmental code.

Mr Shea: You're hoping it would be OACETT that would confer the "P."

Mr Innocente: We would like to be part of that, certainly. We have ongoing discussions with the Ministry of Transportation and the Consulting Engineers of Ontario to look at a program right now.

Mr Shea: All right. Thank you. That clarifies it.

The Chair: Mr Wells, do you have a comment?

Mr Wells: I would add to that. Part of what you're saying I understand. You and I have talked about this in the past. To some extent, part of the dilemma is the silos in the field. That's the next step that comes along two years from now as we start to discuss, how do we do something in the engineering and applied sciences field to become competitive in the world, and how do we get into some kind of umbrella legislation similar to the health sciences? We have some data on it and we'll pass it on to some of you. We see that as the next step.

I do think these designations are particularly clear in that you have two-year technicians, you have three-year certified engineering technologists who are in the engineering field and you have applied science technologists who are in the non-engineering fields, surveying and things like that. We did actually, in our presentation, give you a list of those designations. I think that's relatively clear. The description of work, with the amendment legislative counsel has, answers the concerns in that area.

I would add that the architectural technologists have not talked. Their comment to me was that they had planned to come to this to lend support to what we were doing, but they were not going to take a position on this bill. I think it would be fair to say — and if I'm not saying this correctly, I'm sure they'll say so — that what they said was they would not oppose this legislation. They're not standing up and supporting it, but they're saying they would not oppose this legislation.

It's important that you move forward on this. The fact that the engineering applied science design community has come together and basically said, "We're moving in the right direction on this description," is very key. We have also made it very clear that we will work with the professional engineers of Ontario and the Ontario Association of Architects in trying to use this additional designation. We have said in our documentation to you that we will not go off on a tangent and use this thing; we will work together. It's obviously of no value to us to have a designation that we can't work with the professional engineers and the architects with, because if we can't use it as part of a team in that kind of process, it will be meaningless in the workforce. So obviously we would propose to work with those concepts in that way.

On the description of work, with the amendment I think we are pretty close and there is some reasonable clarity. On the designations, I am mindful of the concern of professional engineers in terms of the use of "professional." We would still prefer to go to "professional technologist." That would be the choice we had at the start. We moved from that designation because your interministerial committee told us they were not comfortable with it, so we moved to what we have. If one is not concerned, we would go back to that.

Mr Shea: Let me just make sure I'm clear on that. Your position would be that you'd be very happy to collapse the CT, CET and PCET into PT?

Mr Innocente: No.

Mr Wells: The PCET and PAScT into PT, professional technologist.

Mr Shea: But the others would still say CT, because of the two-year/three-year differential?

Mr Innocente: Yes.

Mr Wells: That's right.

The Chair: I have five questions remaining: Mr Caplan, Mr Martin, Mr Shea, Mr Leadston and Mr Boushy.

Mr Caplan: I certainly want to congratulate the association for coming forward and being somewhat proactive in trying to lend some definition. I must say I support their call for the Attorney General's ministry to look at some type of umbrella legislation and sort out a lot of these issues in the design, the engineering and the applied science fields. Obviously, there are a great many organizations, groups and associations which are practising. It seems, like what was done in health care, a good idea to sort out who's responsible for what. The public would have some knowledge and ability to do that.

That being said, I must admit I have some difficulty with that process being circumvented and done on a piecemeal basis through a private member's bill. I really do think it should be done in a more comprehensive way. I understand that the description of "work" is not prescriptive and it's not prohibitive. But that's not really the point. The point is that it should be done together with all of the other facets, all of the other components of the different areas.

I'm a bit curious. Maybe one question is, when somebody goes into a course at the community college, what would the calendar say for the course study they would want to go into? It would obviously give some description of what happens and it would obviously give some clarity about what opportunities, what fields you'll be going into and in what situations a person going into this field might find themselves. I wonder if you could give me some idea about what people are expecting when they take the course at a community college level.

Mr Innocente: The community college system and their calendars, for the most part, give a very brief, generic description of the course, whether it's a two-year technician-level course or a three-year technologist-level course. Community colleges grant diplomas at the technician or technologist level.

We as an association are strictly voluntary. We approach those graduates and make the association available to them. They have the option of whether they choose to register or not. We provide what we think is a recognized association with professional qualifications and competencies that those members still have to meet. There is no automatic entry into the association by the community college graduates. There is, in fact, as I mentioned, a strict law and ethics professional practice exam that each and every member has to go through. They have the option of doing a two-day seminar program and they have to write a three-hour exam program.

Again, I would reiterate that the community college system may be somewhat vague as to what their opportunities are later on. We try to fill the gap as best we can; in fact, we have a booth set up right now over at the Construct Canada show and we have many students, employers and industries that are going by our booth right now. We will be handing out information about OACETT, about the profession, about what engineering and applied science technicians and technologists do. We are well-defined as to what our certified members do. Part of that is certainly their academic college backgrounds, but there are still other competencies they must reach to become full members.

Mr Caplan: Sure, plus practical experience and —

Mr Wells: Plus a minimum of two years of increasing practical experience.

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Mr Caplan: I do think, as I said, that the scope-of-work language is useful to have. I am somewhat concerned that it's out of a larger context. I think there's a role for the Attorney General's ministry, as you said, to bring together the various groups to have some kind of umbrella legislation. I wondered if you would comment on your discussions that have taken place.

Mr Innocente: Certainly OACETT is very pro-umbrella legislation. We have been promoting that since the early 1980s. Unfortunately, we are the only association that has been promoting it. We've not had the backing of government or other associations towards that goal. We are starting to find that there are a number of associations that are asking the same questions we are. We are certainly very glad that the government is starting to recognize that there is a need there. We still see that even if we started that today — and I might tell you that we're prepared to start January 1.

We have had discussions with many of the associations that are here today about this very issue. OACETT is ready to go. What we need are other associations to join the cause, but I think we need a clearer mandate from the government too. Part of the reason is that professional engineers, as the largest association in Ontario, with over 80,000 members, as of today have not had a clear decision as to how they would like to proceed. They are the holders of the regulation right now, and they perhaps see that it may not be in their interest to give it up, unfortunately. That's not to say we haven't had positive discussions with them. As a matter of fact Stewart Baxter, who is here, and Ted Wisz, will be putting that on their agenda for the PEO-OACETT joint management board meetings in the new year and they will be looking at that a lot more seriously. It will take some time. Maybe in a year from now, maybe two years, we'll be back here with an umbrella situation.

In the meantime, our members have been around for over 40 years. We are asking for the recognition that we feel our members deserve. They are out there practising, day in and day out, without a defined scope of work. They

have protected titles but we feel — and our members have asked time and time again that we have a clear definition of work with protected titles. That has been my mandate for the last two years as president of OACETT, to work towards this situation. As Bruce had indicated, in the last 14 or 15 years we have not had the engineering and science community together in one room that have agreed to 99.9% of a private member's bill.

Mr Caplan: I believe this bill would set a significant precedent in this kind of language appearing through this avenue. When scope-of-work language has been put in legislation it has been a part of government legislation.

Mr Innocente: I think the comments from the Attorney General's office are that maybe it's time that it does happened. Maybe we need a definition of protected titles, what they actually mean. We've taken the initiative and we've come forward with that proposal. In fact, as we indicated to Mr Sheehan of the Red Tape Commission, we think this will cut the red tape. It will be that much clearer as to what our members can and cannot do.

Mr Caplan: But won't you set up a situation where every single association —

Mr Innocente: Unfortunately, I can't control that.

Mr Caplan: I understand — will come forward and say: "Look, this is the area that we work in as well," or "This is an area that we view as very important as well." You get the potential for overlap or confusion through these constant decisions being made on an ad hoc basis as opposed to a comprehensive one.

Mr Innocente: This is where I hope the government would see fit to perhaps mandate or instruct that a committee be established to review this in further detail and work towards that umbrella legislation. That's not why we're here today but I can sympathize with what you're saying. We have indicated that to the government since the early 1980s.

Mr Caplan: One of my great concerns is that without the benefit of individuals throughout the industry but also throughout the ministry reviewing this as a whole, we're making piecemeal decisions. How do they fit together? How is that going to benefit the larger public? So I do have some concerns.

Mr Fram: The first question is, I worked for 22 years at the Ministry of the Attorney General and the likelihood, under the most blossoming number of civil servants in the policy division, was nil for this happening at the Ministry of the Attorney General. Under the number of civil servants under the existing government who are there in policy today, it is less than zero. So would it be nice? Yes, it would be, but unless the organizations themselves do the whole job and then come to the government, the chance is that nothing will happen. This is the beginning of the organizations coming together, but the chance of the government doing something to put this together is non-existent.

The second part is just a reminder that there is nothing in this description that inhibits anyone, so in fact there can't be conflict. AATO members, architectural technologists, can do things within this definition. There's nothing to restrict them from doing any part of the definition. In fact, that's what they do in relation to their part of the technology field. There's no conflict. The basic idea of certification, of right-to-title legislation is here. This is your banner: Go out and compete in the market. So there are architectural technologists who are members of AATO and there are architectural technologists who are members of OACETT and there are architectural members who are members of both organizations. We're talking about a market symbol. This is saying that this is what these people can do.

Mr Caplan: I wasn't here in 1991 when the health professions — I can't imagine that there was a great willingness to want to move in the kind of direction that they did, but it did happen. I understand it was a long and arduous process and there may be many other factors as well, but the fact for me is that it happened. There is certainly sufficient precedent for it. It seems to me it's worked at settling many of the outstanding issues. It may very well be an excellent idea. I know it's something that OACETT has called for. I think, from listening to some of the members of this committee at least, you've made a pretty good case for it. Maybe that message will go back to the Attorney General's ministry and there may very well be some action.

That being said, I have some concern as well, as has been expressed, around the use of the professional designation. There's no doubt in my mind that members of this organization are professional, that they carry on that type of work. As a member of the public, if you said "professional engineer," that has a particular connotation in my mind. I'm unclear how somebody hearing this particular definition or designation would perceive what the term actually means. I would put it this way, that if you were to say large-P professional to me, it would give me the impression of somebody trained under a particular regimen, I believe always through the university system. I don't know of other large-P professions which are outside.

One of my questions is, are there any other professional designations for people who have been trained outside the university system in Ontario?

Mr Fram: The medical technologists, the college of medical technology, the College of Denturists of Ontario — there are quite a number of colleges of technologists under the regulated health professions where the members are not university-trained but are trained in community colleges.

Mr Caplan: I should have framed it a little bit better. Outside of that one particular area, which was dealt with rather comprehensively through the scope of work definitions, have there ever been professional designations conferred on any group that was not trained through that kind of regimen? That one's a little bit special because it's been dealt with at length through quite a long process dealing with all of the different facets of the industry. I'm just wondering, aside from that particular one —

Mr Fram: There are many designations conferred under private legislation passed by the Ontario Legislature that indicate that the holders of those have some high

standard of professionalism. But apart from those, if you're talking about exclusive rights to practise, there are very few actually given. Those under the regulated health professions, architects, engineering, law, and perhaps a couple of others, surveyors, and also veterinarians, that's the list of licensed professions.

Mr Caplan: The difficulty I have in my mind is that as a consumer I don't have detailed knowledge of this particular sector or industry or field. How would I know what the qualifications were if there is this conferred designation? Does that not connote something else? I wonder if I'm all that different from others.

Mr Fram: The notion of the use of "professional" would be exclusive if — for example, under the environmental legislation and the regulations thereunder, professional certified engineering technologists are given the exclusive right to use a technology in connection with an environmental cleanup as described under the regulations. The use is where it does confer a licence.

Mr Martin: On a point of order, Mr Chair: It being past 12, I would suggest that we defer any further discussion of this until we meet again next week, and that the group come back and hopefully will have met with the other group so that we can have something we can move forward with.

The Chair: All in favour? OK. This meeting will stand —

Mr Sheehan: Can I get one thing on the record?

The Chair: I'm not sure if you can, Mr Sheehan. The clock marches on.

Mr Sheehan: I just want a point of privilege.

The Chair: OK, before we vote.

Mr Sheehan: I remember meeting with you gentlemen, but it was back before the summer. I recall and I support what you're talking about. However, I do not recall discussing with you the use of the term "professional." Am I correct in that?

Mr Wells: You're probably correct.

Mr Sheehan: All right. I'd just like the record cleared.

Mr Wells: We talked about the description of work.

Mr Sheehan: Right. I'd like the record to be clear on that point.

The Chair: This meeting is adjourned.

The committee adjourned at 1224.

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Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi privés

Chair: Toby Barrett
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STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 9 December 1998

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI PRIVÉS

Mercredi 9 décembre 1998

The committee met at 1008 in committee room 1.

The Chair (Mr Toby Barrett): Good morning, ladies and gentlemen. Welcome to this regular meeting of the standing committee on regulations and private bills. We are considering two bills today. The first bill: continuing discussion on Bill Pr25, An Act Respecting the Ontario Association of Certified Engineering Technicians and Technologists. Our second bill for discussion this morning is Bill Pr22, An Act Respecting the City of Kingston.

ONTARIO ASSOCIATION OF CERTIFIED ENGINEERING TECHNICIANS AND TECHNOLOGISTS ACT, 1998

Consideration of Bill Pr25, An Act respecting the Ontario Association of Certified Engineering Technicians and Technologists.

The Chair: Going back to our first order on the agenda, Bill Pr25, sponsor, MPP John Baird, Nepean. John, perhaps you would introduce again the candidates.

Mr John R. Baird (Nepean): Perhaps they could introduce each other and their position for the record.

Ms Margaret Nelligan: Margaret Nelligan. I'm solicitor for OACETT.

Mr Angelo Innocente: Angelo Innocente, president of OACETT.

Mr Bruce Wells: Bruce Wells, executive director, OACETT.

The Chair: Thank you, and if you would continue discussion.

Mr Baird: Maybe I'd just make some very short comments. I appreciate that you've got an important bill following this one on your agenda and this is giving us a second day. We'll try to make it quick, particularly for the good mayor of the city of Kingston, whom I know quite well.

This is obviously an important issue. I wanted just to maybe report back on two discussions that have taken place between the engineers and the architectural technologists. They've had some meetings with both and have agreed to make two amendments to the bill to try to address I think some of the fair comments made by members of the committee at our last meeting.

I would like to say just finally there is, while perhaps not universal admiration for the bill, a substantial amount of support for it from associations across the province who are not objecting to it. Certainly the Attorney General, whom I've met with, has no objection and is supportive of the direction that the bill is going in. So maybe without further ado, I'd turn it over for some brief comments by the group.

Mr Wells: Mr Chairman, thank you for hearing us again after last week. At the start, Mr Stephen Fram, who was at this table last week, is in Florida now for the winter so he will not be with us today and his comments will not be available.

You asked us at this hearing last week to look at two particular issues, and those two particular issues were to sit down with the Association of Architectural Technologists of Ontario and look at their amendments and try and come up with some reasonable conclusions to that particular thing.

We have done that. We have looked at the amendments. We have indicated that we will not oppose the amendments that they have put in. We don't think that they're really good in terms of basis of law and we are aware that some amendments have been drafted for you in that particular area. Our legal counsel has looked at them, is able to talk to them, answer questions on them, and we are supportive of that particular process.

The second area that you asked us to do was to sit down with the Association of Professional Engineers of Ontario and try and see if we could come to some conclusion as to just what we would do with the designation "professional," which we were wanting to use in those designations.

We had a meeting with the executive of the Association of Professional Engineers of Ontario on Monday night. Mr Innocente and I could not get agreement from the professional engineers of Ontario at this time to use that designation. I want to stress that this was not a situation where they simply said adamantly, "No, we refuse." There was some discussion and we see some things coming down the line that would do that. Accordingly, I asked that those two new designations that we had asked for be dropped from the legislation and that we would go back to the designations that were in the act in 1984 and which you approved at that time.

Just to clarify, there is a document that hopefully was passed out to you, OACETT Protected Designations. The technologist designations: CET and AScT. CET, certified engineering technologist, is used for individuals registered in engineering-related disciplines, and AScT for individuals registered in applied science disciplines.

We use the certified technician, CTech, at the technician level for both engineering and applied science disciplines. That particular designation was approved by you in 1984. It is a designation that is used in this same capacity in nine provinces in Ontario. Indeed Quebec, which is not using it now, is looking in terms of moving in that particular direction. We are also moving on the work we're doing internationally to try and get that introduced as a kind of universal, international designation so we get out of the vegetable soup that Mr Shea was talking about in the past.

I'm not going to talk about the description of work. I'm going to let my president do that. But before I sit down, Mr Chairman, I would like to read two letters into the record. One is on the letterhead of the Consulting Engineers of Ontario. It's dated December 9.

"To Whom It May Concern:

"Consulting Engineers of Ontario renewed and strengthened its working relationships with OACETT in 1994 as a result of their participation on the sectoral committee that was established to develop a sector strategy for the consulting engineering industry. Based on their significant contributions to this study, OACETT was invited to further build on this partnership through a seat on the Consulting Engineering Sector Council. Also, OACETT became an affiliate member of our association in 1997.

"OACETT members form a major element of our industry and our association. Approximately 45% of the employees in the firms in our consulting engineering industry are technicians and technologists.

"We are pleased to support OACETT's efforts to include a generic description of work for technicians and technologists in the OACETT Act. We believe that it will help to clarify the competencies for employers and clients of our industry."

That's signed by Mr Don Ingram, PEng, the president of the Consulting Engineers of Ontario.

A second letter, dated December 8, to the president of OACETT from the Ontario Association of Architects:

"Dear Mr Innocente:

"Further to attendance by representatives of the Ontario Association of Architects (OAA) at committee hearings on the OACETT Act, 1998, which were held last Wednesday, December 2, 1998, I wanted to take a moment to confirm the position of the OAA council.

"OACETT representatives have met with us on a number of occasions during the development of the OACETT Act and have kept the OAA council fully informed of progress and proposed amendments. A number of our specific concerns have been addressed over the course of successive drafts of the act.

"OAA council has reviewed the most recent draft which was provided to us on November 19, 1998, and have also had the draft reviewed by legal counsel. As you are aware, OAA council did have a technical concern with the wording of section 12(2) of that draft. I am now advised by our legal counsel that an amendment has been proposed which addresses those concerns.

"Therefore, I am pleased to confirm that the Ontario Association of Architects is raising no objection to the Ontario Association of Certified Engineering Technicians and Technologists Act, 1998, with the amendment cited above.

"I would also like to take this opportunity to thank OACETT for including us in such a constructive way in the development of the OACETT Act and for responding to our concerns.

"The architects of Ontario wish you well, and look forward to a future of continuing positive relations."

That to concludes, basically, my remarks. I'd just like to say in closing I think I've met every one of you over the last two years. Going around this province, I think I have talked to about 170 people at Queen's Park about these proposed amendments. We have bent, twisted, turned, talked, discussed, compromised and done everything that every committee has told us to do. I hope you will recognize that and the support that we have received from basically the total community in this area when you look at what we have asked you to do.

I turn that over to our president, Mr Innocente.

Mr Innocente: Briefly, I wanted to go over the one page that was sent to the committee, why a description of work is needed in the OACETT Act. Just to reiterate, to focus on CETs and what they have in common; clarify the differences between CETs and related occupational fields; help students choose the appropriate technological profession for them; educate employers about the type of employee they need to perform a certain job; to provide words of limitation and not an exclusive right to practise.

Our description of work gives members of the legislative committee a better idea of who the organization applying for legislation is and what its members do. The description of work, as the one in the OACETT bill, can be helpful to those governed by the legislation and the organization governing them by publicly describing the limits within which practitioners work.

A description of work can be helpful to employers and people who retain a practitioner who is governed by a professional organization such as OACETT. It can help by clarifying the kind of work the person is held out as competent to do, and also help if there is a complaint arising out of the practitioner's work. That is the reason why we have come forward with this description of work.

Bruce Wells has indicated the meetings we have had with AATO on Monday and Professional Engineers Ontario on Monday evening. We've come to a decision in removing the professional titles, and there are several amendments that we hope the committee will endorse along with the bill.

At this point, if the committee would like, you could hear from AATO and some of the other associations in attendance, and then we'd be happy to sum up for the committee.

1020

The Chair: Thank you, Mr Innocente. No further comments from the applicants? At this point, in keeping with procedure, we'll call for any additional comments

from any interested parties. I see a hand at the back. Could you approach the witness table, please, and identify yourselves.

Mr Peter Adams: Good morning, members of the committee and Mr Chairman. My name is Peter Adams. I'm the executive director for the Association of Architectural Technologists of Ontario. With me are David Hornblow, the president of the association, and our legal counsel, Frank Monteleone, from Cassels Brock.

As you saw last week, we handed out a one-page overview concerning this particular bill. In the interim, we did indeed meet with the association of engineering technologists. We didn't come to agreement as to how this bill should proceed. The concerns we had still stand. Now, they have made some progress in that area in terms of removing the professional titles that were of concern to a number of groups.

They've also met with Professional Engineers Ontario. I would certainly call upon the committee to ask Dr Bilanski, who is the president of the PEO, for his opinions this morning and find out his opinion of whether this bill should move forward.

Our feeling is that, yes, indeed OACETT did meet for the last two years on several occasions with the architects, they did meet on several occasions with the professional engineers, they did meet on several occasions with members of the committee, and they met with us Monday. Our concern is that the first time we had a face-to-face discussion with this organization concerning this bill was this past Monday.

During the advertising period, we sent them repeated opportunities for their president and executive director to meet with us, 24 hours a day, seven days a week. To OACETT's credit, they proposed setting up a committee structure. Our concern was, with the bill moving forward this fall, that immediately the two associations should make it priority one and discuss how to make sure that architectural technologists are not caught up in this legislation. Unfortunately, that offer wasn't taken up and their president and executive director indicated that it was not possible to meet with them at all over the last three months, and we're here today.

Our concerns with this proposed legislation come down to two broad areas, the first being the titles that have been employed. We're an association of architectural technology and they're supposed to be an association of engineering technology. Our concern comes down to the fact that as of last week, half the titles they were proposing did not contain the word "engineering" or "engineer" in the title.

As of this morning, we were handed amendments to consider before we came into the room today. My understanding from hearing the previous presentation as well as what we've had a chance to go through before coming to the table is that the amendments withdraw the titles that have the descriptive word "professional" in them throughout the bill. That is certainly one step towards solving some of the concerns that some of the groups have mentioned, but it does not resolve all the problems.

They have two titles that are technician titles, one a generic "certified technician," the other a "certified engineering technician." I put it to the committee that if they're an engineering technology association, why a generic title? The explanation we were given on Monday was that it follows PEO's example, the Professional Engineers, where they have P Eng and then subdisciplines; that this follows a similar pattern.

Unlike the professional engineers, "certified technician" does not describe a core competency. There is nothing in that title that tells the public what that is. The representatives on Monday, although they are free to describe where that title will be employed, whether it will kept within the construction understanding or the construction industry, did not state that it would not be given to groups that are not related to engineering.

We have two technician titles in our association and we're very concerned that moving forward with this is going to increasingly cause the public to question what the technician category really means in the marketplace. Both the technician titles that our association employs have descriptive words in them to indicate to the public that if they're employing that individual, that individual has a core competency. We don't think that's a lot to ask.

Secondly, the description of work: We've certainly had conversations with a number of the committee members around the table, including Mr Baird, who very kindly made some time to see us as well regarding this. Frankly, we've also received a document that came in yesterday afternoon from OACETT giving the rationale for this, which I'll let our president Mr Hornblow speak to, the gist of it being that it will clear up confusion.

The description of work does not contain a reference to engineering; in fact, it has been described that it could apply to our members. One of the claims in the document is that students coming out of school are going to understand what this profession of engineering technology is. When they're asking for this description be applied to titles that don't contain the word "engineering" in it and the description itself doesn't contain a reference to engineering, we're not sure how that's going to clear up anyone's understanding of what an engineering technologist does.

The primary concern we really have is that a number of the groups around the table — the engineers, the engineering technologists, ourselves as the architectural technologists — have spoken to the need for umbrella legislation or a comprehensive review of how design and these types of services are provided in the industry. We feel that creating a number of titles acts, with descriptions of work, is a step in the wrong direction.

Essentially it comes down to two broad areas: (1) There is already an act in Ontario that describes the practices of architecture; (2) there's already an act in Ontario that describes the practice of engineering. Anything that changes that should happen within the scope of those acts, in our opinion.

1030

I foresee the day when all of us may be, if this act passes, forced down a different path. The concern we have, for all of us, is that every time a group wants to add a description of work now, because we're going to be derailed from going after the primary concern, which is taking a new look at how these services are provided in the existing framework, we're going to come back here time and again. We're all going to have to come back before the committee, because if we change our acts, all the other groups are going to have to come back and make sure we don't put anything in that adversely affects them. We'll be back here, with our legal counsel, taking days away from what we do for a living to come back here time and time again to do this.

From a larger perspective of getting on with everyone's stated aim of getting at umbrella legislation, our bigger concern here is that when we call these other groups and say, "Shall we meet and discuss umbrella legislation?" their response is going to be, time and again, "We're working on putting a description of work in our titles act right now, but we'd happy, after we've met for the next two, three, five years with interested parties, to sit down with you and talk about how that just might work."

We can't help but look at the red tape implications for this, that there is a number of acts. The public is going to be sitting on the outside of this process looking and saying: "Now to understand architecture I will have to understand the main act that deals with architecture and successive smaller acts that have descriptions of work in them. Now I'm going to have to pore through the engineering act and then I'm going to have to pore through a number of descriptions of work and successively small titles bills."

Not unlike the fact that each of us has a driver's licence and there's one Highway Traffic Act, the titles bill exists to give those titles to a particular group. The titles that have been asked for here today should not be protected titles. "Certified technician" is far too vague a title to protect. The description of work is far too vague; it doesn't link up with individual titles. At the end of the day, when we pass this Bill Pr25 into law, we're left with a confused public trying to sort through and figure out how everyone interrelates and how these titles are described by the description of work.

I'll very quickly turn this over to our president, and then our legal counsel will make a few remarks concerning the legal problems or the legal implications for our association should the description of work move forward as proposed.

Mr David Hornblow: I was quoted last week in my speech that this current piece of legislation, even with some of the proposed amendments, will muddy up the waters even further. I still feel that way today, even after reading the most recent amendments and even after meeting with OACETT on Monday.

OACETT has stated several times that they've met with the PEO, the OAA and this committee. We've extended an offer to meet with them on several occasions to deal with these issues far before they came to this committee, and we still wish to extend that offer to them.

We don't feel this bill should move forward the way it is currently and with some of the proposed changes suggested. There are several reasons. Reviewing some of the latest information that I received yesterday from OACETT themselves, from reviewing their bylaws, in particular bylaw 18, this bill certainly doesn't go far enough to do what OACETT was hoping to do; that is, to clear up those muddy waters or to clean up the vegetable soup, depending on what terminology you wish to use.

OACETT sent me a document called Appendix A. It says, "CETs need a statutory description of work to stress the principles uniting the diversely employed professions" within the first section. They further go on to say, "To clarify the differences between CETs and related occupational fields." I fail to see how the description of their titles or the description of work does that. Further in that paragraph it says, "the proper relationship between engineering technology and professional engineering." When I look at "certified technician" and the multiple disciplines that OACETT says they represent, I fail to see how that is accomplished through the description of work, which clearly overlaps with many of my members', who have taken their time to come out again today in support of our association's opposition of this.

They further go on to say, "provides clarity with respect to the work of CETs and architects." Again, I clearly state that this description of work does not do so; in fact, it overlaps. It doesn't say what an engineering technician or technologist does; it says what everybody does within the construction industry.

The third paragraph goes on to say, "To help students choose the appropriate technological profession for them." When a student applies — and I was once a student — whether through the college system or the university system, they apply for a certain discipline within their studies. Our students currently apply for architectural technology, architectural technician, building technology or building technician courses.

Currently, within their bylaw 18 and within information we've been given in the past and with our discussions — however brief they might have been — not related to this act, they've been using derivatives of our titles, which only adds to the confusion for students further on as they graduate, not knowing which organization represents them, not knowing which organization truly represents the concerns of the public in that particular discipline.

They further go on to say, "To educate employers about the type of employee they need to perform a certain job." Again I look at the description of work. It doesn't tell me that n certified technician solely can do this work, it doesn't tell me that an engineering technician solely does this work, but it also doesn't clarify who does what. "A statutory description of work will help employers understand who does what." I look at the bill and I look at the titles and I look at that description of work; it doesn't tell me who does what.

They go on to say in their fifth paragraph, "To provide words of limitation and not an exclusive right to practise." That's how they start this paragraph right off, yet then they further say in this paragraph, "The proposed description of work proposed for the OACETT Act limits what CETs are allowed to do." They also imply within this paragraph that it is the scope of practice, not so much the description of work. So this might be the first step towards a scope of practice within the discipline. It goes back to what Peter Adams, my executive director, said: that we currently have two scopes of practices within two current pieces of legislation that we all feel should be looked at towards the umbrella legislation.

They also go on to say, "It does not restrict what non-CETs can do." My legal counsel will allude to some of the difficulties within the current piece of legislation that we feel would be definitely a hindrance. I'll give you my example of my take on it.

Currently, the Architects Act does three different things. The Architects Act protects the title "architect." The Architects Act protects work done by an architect; it has description of work, who does what. The Architect Act goes on also to define what is architecture in the province of Ontario. I may not necessarily agree with the wide-scoping brush that this definition has been given, but it has been given that. By reviewing that and by what has happened to my membership in the past, this current piece of legislation causes me concern.

In the past membership and non-membership of the AATO and of the OAA, the OAA is taking people to court on the basis of the description of what architecture is. In doing so, they've used the description of what architecture is, so in turn they've held themselves out as being an architect. This is held up in a court of law, and the person has been found guilty or held in abeyance because of it not being so clear. When I look at the legalities and I go through each section of this act, I don't see how my members in the future will be protected from possible litigation from their association.

They say, "The inclusion of a description of work in a private bill reserving title is a worthy precedent." I would agree if it's under the umbrella organization, not in a titles bill. I say that honestly, because we stood before you two years ago and if we thought this was the way to go we probably would have tried it as well, but we did not feel that this was the way to go. The way to was through an umbrella piece of legislation to clear up discrepancies that have arisen within the industry stemming from the Architects Act and the engineers' act — no fault of their own, by the way. They go on to say:

"A description of work will give members of the committee a better idea of who the organization applying for legislation is and what the members do. Members of some occupations, eg, librarians, may do work that is known."

1040

They also use the example of road superintendents. Again, when I use two diverse groups such as librarians and engineering technologists and I go through their various disciplines, how do they relate to engineering technology and how to do they relate to how a member of the general public will understand what a CTech is or an applied science technologist is without something modifying it, in other words, clearly stating that there's a certified engineering technician, clearly stating that there are certified engineering technologists?

The last two paragraphs of appendix A also cause me concern because, again, it contradicts what this piece of legislation is intended to do and what it fails to do:

"The description of work in important even though non-members of OACETT may do the described work and other organizations may use the description of work for their own purposes."

If I can go along and put this same description of work within my act, how does that help the general public understand what an architectural technologist or building technologist or a certified engineering technologist does, if I can use the same description of work? It doesn't clear up in my mind what an engineering technologist does, it doesn't clear up in my mind what an architectural technologist does, and it certainly doesn't clarify the differences between the two groups and the two professions. They say it resolves any confusion within the industry.

I lastly want to leave you this after going through their appendix A, after going through their bylaw, which is in part of our submission to you: It doesn't do so. It doesn't meet the benchmark to which this committee has held it so far and it doesn't meet the benchmark which the public and the industry will hold it up against.

As far as the legal ramifications, our legal counsel is more adept to go over those various things, so I'd like to turn it our to our legal counsel.

The Chair: Thank you, Mr Hornblow.

Mr Frank Monteleone: I will be brief. My name is Frank Monteleone and I'm a partner at Cassels, Brock and Blackwell. I just wanted to deal with two issues from a legal perspective.

With respect to the work description, you've heard our concerns with respect to the description being generic, without substance and that it appears to be virtually unlimited in terms to what area of expertise the work descriptions could apply, including the work undertaking by AATO members. There clearly has been no attempt to draw a dividing line between the descriptions of work for OACETT members as proposed in this bill and the work which AATO members can undertake.

We also understand that the descriptions of work in this type of a bill are precedent-setting, and as we've emphasized, further consideration should be given as to the impact of proceeding in this manner rather than pursuant to umbrella legislation.

I believe I can express the concern with regard to AATO members this way: If you look at the proposed bill, and in particular sections 10, 11, and 12, under section 11, a person is prohibited from using a protected designation or title, and a person cannot imply or hold out that he or she is, for example, a certified technician. The question I would ask is, by performing work which is within the description of work in subsection 12(1) of the bill, does a

person imply that he or she holds one of the protected titles from OACETT? Section 13 would not be a complete answer to this concern in light of this language.

The descriptions of work are so vague as to be virtually meaningless and this vagueness permits degrees of overlap, again, using AATO members as the example. We suggest that concern should be resolved before this bill is approved.

With respect to the protected title "certified technician" to which Mr Adams has already spoken, the only issue that I want to respond to is the fact that this title already exists in the 1984 act for OACETT. I would just comment that the entire bill is before you and therefore you are in a position to consider whether in 1998 the designated title "certified technician" is an appropriate one in light of the concerns that Mr Adams has already raised.

I believe that those are the issues.

Mr Adams: I'd just like to wrap up our presentation by indicating again that we don't understand why there is an urgency with moving forward with it this morning. Our group has had its one meeting of consultation which occurred between these committee meetings with OACETT. I think you'll hear, if you ask the president of professional engineers, that there are some concerns regarding the timeline as well in their association. I'd encourage you to bring Dr Bilanski forward to ask him directly.

Frankly, I think we would all benefit from taking a chance, to go through and see if there aren't alternatives to what we have before us today. It's been especially tough on our organization; a number of our members are sitting here today, who have taken time off work, because they feel quite strongly that this process hasn't been properly considered. We can only ask, if OACETT's had time and time again to meet with the architects and to meet with the engineers and to meet with members of the committee, why only one meeting with us?

Again, thank you very much, members of the committee. We look forward to your decision.

The Chair: Thank you, Mr Adams.

We've heard from the applicants, we've heard from one interested party. Is there a second interested party that wishes to make comment?

Mr Walter Bilanski: Mr Chairman, it would depend on whether you wish to hear from the professional engineers again. We are here. That would be up to you.

The Chair: It's up to any second interested party if they wish to add any additional information. If not, I will go to the committee members for questions.

Mr Derwyn Shea (High Park-Swansea): Mr Chairman, I would like to hear what Mr Bilanski has to say before we get into the questioning.

The Chair: Yes, have a chair. For Hansard I'll just ask you again to identify yourself and your organization.

1050

Mr Bilanski: Walter Bilanski, president of Professional Engineers of Ontario, and Laurie MacDonald, registrar and CEO of the Professional Engineers of Ontario. I would like to thank you for giving me the privilege of addressing this standing committee again.

I'm going to open more to questions than really statements as far as I'm concerned. I believe — I didn't play the tapes — last week when I appeared here, roughly at the same time, I showed concern on behalf of the profession, which I do not need to reiterate to you but perhaps to some of the audience.

We work under the Professional Engineers Act which is there to protect the public. There is quite often a misunderstanding it is there to protect the engineers; it is not. It is there to protect the public and that is what we are here for, and with any changes or alterations or additions, we must and we do take into consideration the public.

The one aspect that we were concerned about was the name "professional." We did have a meeting last Monday with our executive committee and I understood, and I understand, that this title is going to be removed.

At the same time last week, I believe I mentioned that the time interval was short. Council did approve the act as it was going, but certainly I, as chairperson, had and have reservations if you ask whether we had ample time to really delve into it in detail. I was quite surprised, still am, that our joint committee apparently did take into consideration the changes that were made in the last two weeks, I believe. The official letter came in on November 19; nevertheless, I understand that they did not come to a conclusion.

Unfortunately, I do not see the chairperson of that particular committee. Therefore, my position has not really changed from last week other than I understand that the concern about the name "professional" is alleviated. Certainly, Laurie, if there's anything that you would care to add, please do so.

Ms Laurie MacDonald: I have nothing to add.

Mr Bilanski: I know the macro aspects and she knows the micro aspects.

The Chair: Thank you, Mr Bilanski. We will be coming to the question portion of the agenda shortly, if you wish to have a chair.

Mr Bilanski: Thank you.

The Chair: Are there any additional interested parties who wish to speak before we go to the committee? Yes, sir, would you come forward?

Mr Bill Pearson: Thank you. My name is Bill Pearson. I'm the president of the Association of Geoscientists of Ontario, and John Bowlby is our vice-president.

Your committee may not be familiar with our organization but we represent over 1,000 geoscientists in Ontario who have been pursuing enabling legislation for licensure of our profession and this has particularly been highlighted by the recently released Toronto Stock Exchange, Ontario Securities Commission, Mining Standards Task Force.

We have had a number of discussions with OACETT over many months because many of our members work very closely with technologists and technicians. We, as geoscientists, are involved in many matters that affect both public interest and public safety in Ontario. We utilize the

skills and talents of technicians and technologists in this work in areas such as resource development, environment practice and civil infrastructure development. So we're naturally very interested in following the developments of OACETT and how this legislation is evolving.

We would like to express our support for the amendments that OACETT has proposed. We particularly think the section on the description of work is a good addition because it clarifies what work can be undertaken by technicians and technologists relative to licensed professionals. I think this guidance is very useful in resolving some of the current confusion in the marketplace on provision of technical services within the geosciences.

We would just like to thank the standing committee for the opportunity to make our comments.

The Chair: Thank you, Mr Pearson. Mr Bowlby, any comments?

Mr John Bowlby: No further comments.

The Chair: Are there any further comments from a separate, interested party? OK, at this point in our agenda —

Mr Shea: On a point of order, Chair: I ask your response to two points I want to raise. We have before us today two extremely important bills, Pr22 and Pr25. I'm sitting here and I'm conscious of the time on behalf of all the colleagues, all of us around the table, and we recognize we have people here from Kingston who have a significant issue to raise and I'm concerned about that. I can only assume that the assumption of the Chair was that Bill Pr25 would be resolved in terms negotiations prior to this meeting and that some of those negotiations may not have materialized. I'd like to keep us focused, if we can, mindful of the time frame before us.

I think I have to say that because I know what's on the agenda for all of us, and we want to deal with them in a complete and fulfilling fashion, but I'm concerned that we find ourselves in what still appears to be a fruitless dialogue that the committee will now have to wrestle with and resolve. That leads me to my second point about how to deal with Pr25 in a fitting fashion.

The process here has always been disconcerting at best. I hear from an applicant, I hear from somebody else, I hear from somebody else and they all take off and go into different parts of the room. If you want to then put them to examination, it's a matter of, "Let's wait for you after Alphonse," and the next one comes up and then the next one. It might be helpful, at least for me and my simple background, Chairman, to ask you for your indulgence and maybe we could ask at least one representative from each of the three major positioning groups to take a place at the witness table so if we want to ask questions we may be able to go to the questions very quickly to a representative of each group if that's necessary. For me it could be resolved with three or four questions, I think, but it may have to go to a couple of different parties at the time. I'm trying to facilitate that, because I'm mindful of the time. I seek your guidance.

The Chair: We will be going to questions. That's an idea. Mr Hardeman, comments on behalf of the government?

Mr Ernie Hardeman (Oxford): Thank you very much —

The Chair: Unless you want to make a motion, Mr Shea.

Mr Shea: I don't want to make a motion. I have too much respect for your position as Chairman, and I know you'll facilitate matters of this committee, so I'll leave it in your hands.

Mr Hardeman: As I mentioned at the previous meeting for this bill a week ago, the government and the ministries that were involved with the review registered no objections to the bill. It was obvious from that meeting that there were some questions raised by the members of the committee that in the committee's opinion needed addressing. In fact, the issue was brought forward to today. I think it related to the questions of the word "professional" in the document and the other issue, I think we would all agree, was relating to the description of work in the bill.

I would point out that as the ministry registered no objection to the bill in it's previous situation, nothing that has come forward in the discussion today would, in my opinion, change the ministry's position on whether they would or would not object to the bill. I leave that to the committee members to make their own decision.

As we deal with the bill, I have some amendments that have been proposed by the applicant through the sponsor of the bill, Mr Baird, that I would be prepared to move into the record for any amendments that the committee may want to support in dealing with the bill.

Furthermore, I, as another member of the committee, would not object to the suggestion of committee member Mr Shea to ask maybe three spokespeople for the individual groups to be at the witness table in order that we could facilitate the question period more expeditiously.

The Chair: Thank you, Mr Hardeman. Any amendments would be done during clause-by-clause. I do have a question from you, Mr Hardeman. Do you wish to ask that now?

Interjections.

Mr Alvin Curling (Scarborough North): I just want to comment on Mr Shea's point. I'm trying to rest in my mind how that will make it more efficient, as a matter of fact, if we put three people up there, whether or not that shortens the time. I know democracy is quite a tedious, long, struggling process. I'm just wondering if by putting that it is compacting the question into one. Maybe what we need in a committee is an extended time to be heard rather than trying to ram it through in the short time we have. I'm just trying to understand how we would facilitate it.

1100

Mr Shea: Chair, I'm happy to respond if that's of assistance to you. Mr Curling, I want to make it very clear I'm prepared to stay here and take as many weeks as necessary to ensure that Pr25 is dealt with in the most

judicious way possible. Understand that. On the other hand, I'm also conscious that, for whatever reason, and I don't hold the Chair or staff accountable for this, we also have a circumstance where Mr Gerretsen is here to present Pr22. People have travelled from Kingston and elsewhere, and they have a significant issue to deal with. I'm prepared to stay here for weeks and weeks, if necessary, to resolve that as well. But if it was a matter of facilitating a question — and I believe the parliamentary assistant has adequately expressed the government point of view — I can resolve my questions with two or three simple questions. All I need to do, though, is have the three of them there so they each have a chance to make a very quick response so I can see them in parallel.

I can do it the other way: I can have each group come up in our traditional fashion and they can stay here and we can all take lots of time to make sure we've asked those questions. Then we can go through the next group, and as each group lays out groundwork that may cause some doubt on a previous answer, I can go through the routine and bring them back and carry on through that. I'm happy to go through that process, Mr Curling. But out of respect to both Mr Baird and Mr Gerretsen, and particularly to the applicants, I was simply trying to find a way to facilitate the matter at least, I confess, for my benefit. I had hoped that it might be for the benefit of the committee. If it is not, sir, I am perfectly prepared to defer to your experience and to your wisdom and let this matter unfold in a longer period of time. That's all I have to say, Mr Chairman.

The Chair: I would like to move on to questions from committee members to either the applicant, to Mr Hardeman our parliamentary assistant or to any of the interested parties that have presented, starting with Mr Martin.

Mr Tony Martin (Sault Ste Marie): I have no difficulty with the method that was suggested. I think it might facilitate. Different people may want to respond to different questions, and to be dragging them back and forth with the crowd we have here this morning doesn't make much sense. If you want to bring forward, say, a rep from each group and do that, I have no difficulty with that.

Mr Shea: Could I have a show of hands on that, Chairman?

The Chair: Could I have your question first? Does it relate to any of the interested parties?

Mr Martin: There was some talk this morning of there being an umbrella act that governs a certain group of workers in the province and, underneath that umbrella, different professions that define their scope of work. There was a suggestion that the definition of "technologist" might be more adequately addressed there as opposed to in this specific act. It sounds like we have three groups here this morning who have different views of whether defining this set of activities in this act is going to impede the ability of other professions to do the work, or if it will in fact confuse the public.

I think we have to be concerned about the issue of confusing the public. When you hire somebody to do something, you want to know very clearly and specifically what they have the professional qualifications to do.

I'd like some further clarification on the issue of there being an umbrella act and then specific acts, how that fits.

The Chair: OK. Was that a comment or did you have a question?

Mr Martin: I want somebody to clarify that for me.

The Chair: OK. You have a question and you haven't indicated whom you wish to answer.

Mr Martin: This may be a situation where all three of them may want to.

The Chair: OK. Given your wishes, then, could I ask for one representative of all the groups that presented this morning to sit at the witness table. I'm asking for only one representative from each of the interested parties plus one representative from the applicants, if that's in keeping with the wishes of this committee.

Mr Wells: Chair, since you have some amendments, speaking in terms of the legal area I think OACETT's legal counsel should sit for them. Hopefully, that will help speed it up for you.

The Chair: That's fine. Would the other interested parties that presented have one representative at the witness table if you wish to answer questions?

Mr Martin, you may want to repeat your question.

Mr Martin: It's the question of how the individual professions fit within the umbrella and the confusion we have here, this designation.

Ms Nelligan: If I could address that simply: At the moment, with respect to workers in the areas registered under OACETT, there is no umbrella legislation. We're using the term "umbrella legislation" here much like "health disciplines legislation," which would cover all workers within that field.

In this area there is no umbrella legislation. There are a number of pieces of public legislation: the Professional Engineers Act and the Architects Act. There are then private bills which confer on certain associations the right to confer titles, and that is the category into which the OACETT Act fits. It's a right to title bill.

With respect to whether the description of work in the proposed OACETT Act would impede or prohibit any other person from carrying out a particular practice, I would direct you to subsections 12(2), 13(1) and (2) of the bill, which were put in specifically to deal with this issue. Subsection 12(2) — and I believe you will see a proposed amendment later this morning to tighten up some drafting in that — provides that this act does not confer on anyone the right to perform work that only a licensed person may perform under an act of Ontario or Parliament. Subsections 13(1) and (2), I think, go even more directly to the question you raised, Mr Martin:

"13(1) This act does not affect the right of a person to describe himself or herself as a technician, an engineering technician, a technologist or an engineering technologist.

"(2) This act does not affect the right of a person to perform the work described in subsection 12(1)."

It's very clear on the face of the legislation that in no way does this description of work prohibit any person from performing the work described.

Mr Martin: I'd like some comment from the other groups.

Mr Adams: On behalf of the architectural technologists, I would add, and probably the other committee members have a similar question on this, that we all foresee a day when the practice of architecture and engineering is looked at in terms of — there are some considerations by the different bodies within the industry — that there's overlap and that currently where the lines are drawn does not reflect skill sets but reflects where the lines are drawn, if you will. In other words, if the architects were here they would probably suggest that there's some question about what percentage of an architectural technologist is an architect, whether it's zero or 10% or 100%. Right now the Architects Act does not permit an architectural technologist to do things that the general public is not allowed to do. So there is no scope of practice.

It's a similar situation for an engineering technologist. There is no defined scope of practice for these different groups. When they were created, the execution of how to train and create these professions happened but the scope of practice did not. When we talk about that, you're going to hear a lot more talk from groups such as ours, which feel that it's time they were included in the public legislation, that it doesn't make sense that they're not, and you're going to hear counter-arguments from those that, perhaps, maybe enjoy the situation as it is today or have very serious concerns. I'll let them speak for that process over time and other opportunities to come before committee, about who is qualified to do these different roles.

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So all we're talking about when we talk about umbrella legislation is the coming together of all these groups to review who does what, and to sort out what that will eventually look like. No one debates the fact that it would not be 15 or 20 different acts. Usually when people talk about umbrella legislation they're talking about a singular or limited number of entities. We currently have an act that deals with the practice of engineering. We have an act that deals with the practice of architecture. They seem like a logical starting point to resolving the problem of who can work in those fields. Our group's concern is: How does creating a series of descriptions of work — and we've all heard around the table today that this is an extremely vague description that can apply to just about anybody — solve the problem? What it does is that to understand the practice of engineering in Ontario a member of the public will have to understand the engineers act and will also have to understand the engineering technologists act because of the description of work.

Whether or not we think it's vague, it has legal implications for the future. Our group's concern is that despite assurances from legal counsel for the engineering technologists, our counsel has advised us that this description of work, in concert with the other sections of the act — when we get into description of titles, it talks about somebody implying they're a certified technician. Our members don't imply they're certified technicians; they are. They're architectural technicians or building technicians. So we have a real concern that these sections are going to come back to haunt us.

To get back to the umbrella legislation, which is the core of your question: All of these groups, and a number of them are here today, are going to speak in favour of this. Frankly, if we were interested in a quick fix, we would say: "The umbrella legislation's way off. Give us a description of work. Give us a piece of it right now, and then we'll go to the Ministry of Housing and carve out an area of practice over time," which is what's going to happen. So down the road it's only going to get more confusing for the public.

The public is going to end up this description of work that has other things added to it over time. Each group is going to come before you and say, "We'd like a description of work." We're going to come back to the table and say, "This is how it affects us." All these groups will be back before you again and again. And I ask you, "Where's the fire?" They have a titles act. We're not talking about a group that, if they have a negative answer this morning, will suddenly be without any protection for the titles that they've enjoyed since 1984. That will still continue. It doesn't grandfather; nothing happens to it. It's not timing out in any sense of the word. They're here to add to that.

As we've said here, and as they have said in their own brief to you, we're talking about setting a precedent this morning by passing this description of work. It has a serious set of implications for all of us. I'm sure the other parties will elaborate it from their point of view. But I think it is really incumbent on the committee members to ask yourselves, "Do we want to set this precedent, and do we want to go through the process of hammering out ad nauseum before this committee the wording of titles bills?"

The Chair: Do you need any further information, Mr Martin?

Mr Martin: I know it's taking a bit of time, but I'd like the engineers to maybe share briefly —

Mr Shea: Just tighten up the answers.

Mr Martin: Yes, just tighten up the answers if you would.

Ms MacDonald: On behalf of the Professional Engineers, we're certainly open to discussion about an umbrella act, but we really don't have any comment because we don't know what it would be, we don't have any details. We know the concept has been floating around for some time. But until we have some idea of what it might look like, I don't think we can really comment on it.

Mr Martin: Just a supplementary: The division of trying to unscramble the egg, after you've spent a number of years defining and adding to and perhaps overlapping — will what's going on here this morning complicate that and make it difficult down the road to do something of that nature?

Ms MacDonald: Are you directing the question to me?

Mr Martin: Yes.

Ms MacDonald: I guess the easy answer is: I'm not sure. The comment I would make is that PEO supports the act as presented here, although we have a defined scope of practice in our act which we feel, by law, we're obligated to enforce and will continue to do that. We think our definition is quite clear. It defines engineering practice which impacts on public safety. Regardless of what comes out in the OACETT Act, we'll continue to enforce the scope of practice in our act in the public interest.

Mr Hardeman: My comments are going to be directed to just two parts of the bill. I think we've gone through this at a previous meeting, and there seemed to be consensus of all the presenters at the last meeting that there were two contentious issues in this bill. I would like to confine my questions to that and hopefully the answers too, not to rehash the principles of why it's being presented.

The first one is the issue of having the word "professional." I believe the professional engineers' association presentation last week was: "We support the bill, except we did not realize the word 'professional' was being used and we have concern about that so we require more time to talk about that. We're not saying it's negative, but we would like to discuss that." It appears that the applicants are prepared to remove all reference to "professional" in those descriptions. Is it reasonable to assume that that would take away the professional engineers' objection to the passing of this bill?

The other part of the bill, and I think it relates to the architectural technologists too. Their presentation on the titles was in fact that there was no need for those titles. Everything else is, in fact, the same titles that were there before. So this act is not going to change those titles if those amendments were to be passed.

Mr Adams: Are you looking for comments?

Mr Hardeman: Yes.

Mr Adams: Our concerns, if you look at our overview, were of the generic nature. We heard, actually, in your presentation last week, Mr Hardeman, that the Attorney General's office opposed the inclusion of "professional technologist" because it was too vague, and asked that "professional" be added to the other two titles. I guess our concern was: If you use the same yardstick for the "certified technician" title, does it not fail too?

Mr Hardeman: I guess from the committee's point of view, with the amendments that propose to remove the last two titles, 5 and 6, the titles will be identical in the proposed bill as they would be if the proposed bill does not get passed.

Mr Adams: They would be identical but they wouldn't be righting a wrong that's existing since 1984?

Mr Hardeman: Assuming that we're not in a position to correct the wrongs of the world, then it's reasonable to assume that there's going to be no change there.

Mr Adams: We're just limiting it to this.

Mr Hardeman: I just want to get it clear in my mind.

The other one is the issue of the umbrella legislation that would describe the scope of work. Recognizing that this committee does not have the ability to create new umbrella legislation to accommodate all facets of our society, that this committee has to deal with what's here, if you had umbrella legislation defining the scope of work for your organization, the architectural and engineering technologists, is there any reason to assume that that scope of work would be broader in definition than what is in this bill?

Mr Adams: I'm not sure if I understand.

Mr Hardeman: Could it be more generic than this bill?

Mr Adams: Could this be any more generic or could anyone's be more generic?

Mr Hardeman: Would you see anyone becoming more generic than this in any piece of legislation?

Mr Adams: I think it would be a struggle to be more generic than what's here. And if by implication you're saying, "Does it apply to a broad number of groups including ours?" Yes.

Mr Hardeman: I guess I have a problem with, if it's so generic that it does not direct it to a certain group, and it goes on to say, "This act does not affect the right of a person to perform the work described in the section. It does not apply to other people who have similar titles. It does not restrict them," I cannot understand why any organization would consider that negative to their organization.

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Mr Adams: Actually, it comes from an understanding of how the Architects Act has been enforced on our membership. Our members are prohibited by law to say they practise architecture. Would you not assume, if you heard somebody say they're an architectural technologist, that there was some element of architecture in that title? That's the kind of weapon that's been used. When these things get into law, they cease to just be the spirit of the moment and they become a very real tool that the courts look at in enforcing how these different bodies are going to interact or interrelate.

Our concern is, because this is so vague and doesn't actually mention engineering anywhere throughout it, it could very well be used to come down on our membership. If you look at the definition about working in codes and under acts, our membership does that every day. A number of them are here today. You can ask them direct questions. By passing it here, there are sections here that say that if you hold out or imply that you are any one of these titles — these sections are not adequately covered off by section 13. There isn't, within each section, any way to disarm those points of law. Our legal counsel has told us we have a very real problem with it. We're the ones who will have to live with it, I guess, if it passes.

Ms Nelligan: If I could just supplement, with respect to the legislation governing architects, that has the force of public legislation. I'll be paraphrasing here because I don't have the act in front of me but, unlike this bill, that act would say that the work of an architect is defined this way and no person may perform that work or they have committed an offence.

It's very clear this is a private bill; it's not public legislation. No offence is created by performing the work contained in this bill. I'd just like to draw that distinction between the public nature of the architects bill and this bill.

Mr David Caplan (Oriole): In the appendix, when it talks about why a description of work is needed, there's a reference to related occupational fields. How many related occupational fields are there?

Ms Nelligan: I'll jump in here on the answer although I am legal counsel. The OACETT registers members in 64 subcategories. I can't recite those for you at the moment but they cover a lot of different areas: engineering, chemists, geoscience and building design. Those are the four categories I can tell you right now. If you'd like more information I can ask our executive director.

Mr Caplan: The point is there are a vast number of related occupational fields.

Ms Nelligan: That's right.

Mr Caplan: Then my question is, how does the description of work here clarify the differences between those occupational fields, as is the claim in the appendix?

Ms Nelligan: It doesn't clarify the differences between the occupations but it does clarify the position of the technician and the technologist vis-à-vis the professions that operate under public legislation, such as the professional engineers and the architects, and it provides some clarity that the technicians and the technologists work within standards and codes. That has not yet been said before. It describes the work that the technicians and technologists do but it does not attempt to draw lines between the particular areas of the 64 subcategories that would be in the registered categories.

Mr Caplan: Or with other related associations.

Ms Nelligan: That's right. So by not defining those areas we are also not trying to limit those areas or impede on their areas.

Mr Caplan: Where is the clarity? For example, engineers and architects already have a well-defined scope of practice in law, and that's unquestioned. That already exists. Where is the clarity with other occupational fields that this description of work is supposed to provide?

Ms Nelligan: It provides clarity for a number of areas — not all. Particularly vis-à-vis some public legislation where the definition of work is very broad, it provides clarity. We have the agreement of those professional associations that this provides clarity for the people who perform technologists' and technicians' work under the direction of that profession. The clarity is meant to meet that layer and not necessarily the different disciplines that arise within OACETT's membership.

Mr Caplan: I think we could go on a bit about that, but it is recognized that this is a significant precedent, to have description of work in a private bill. That's readily acknowledged.

Ms Nelligan: It's fair to say it is a precedent. I'm not sure that it is significant because it is not purporting to go into the realm of public legislation or prohibit any person from doing anything or creating a duty on any person. It does have some precedent in that the style of legislation is new, but it's inoffensive from a precedential point of view because it's not rocking the boat on creating prohibitions or creating new duties.

Mr Caplan: But it has never happened before.

Ms Nelligan: To my knowledge this has not happened before, no.

Mr Caplan: In this way.

Ms Nelligan: No.

Mr Caplan: One further question. In the description of work in the appendix, the last point says that other associations and organizations could use similar or even identical wording in their own titles acts. What I'm interested in is, if that is the case, if another organization — the landscape folks, architects, or some others — used identical wording as description of work, wouldn't that be rather confusing? Where is the clarify about what everybody does if everyone has the same descriptions of work?

Ms Nelligan: We believe it could provide clarity for other associations should they choose to adopt this approach in their legislation, including our friends at AATO. A description of work may help with this. If they could get agreement with the association of architects on a description of work, they may not have so much litigation between the two parties as to who's trampling on whose field, because you have an agreement as to what work is performed by the technicians and technologists. Again, since this is a private bill, it doesn't have the force to the effect that if somebody contravenes a provision, it is an offence. It's not a licensing statute.

The Chair: I have two remaining questions. I know committee members —

Mr Caplan: I have some further questions but I would welcome a comment from some of the other presenters.

Mr Adams: We've heard that they don't feel it would impact on us, and the first opportunity they had to discuss that with us was last Monday, after the bill was already here.

I would ask the committee members — you're calling yourself a certified technician. You're now saying this is our description of work. If you hold out and say, "I'm going to call myself a certified technician," and then read out this description of work, try it on somebody who hasn't been here this morning and see if they understand what that person is. That's our complaint. There's nothing in the description of work or the title I've just mentioned that uses the word "engineering" or "engineer."

We've been told it's a good idea because we could put it in our act too. I'm really not too sure how that solves — they've said in their own piece, "It will help students understand." Well, if the students are going to see the same thing in 15 different pieces of legislation, will that make them understand that a lot of groups have an understanding of a vague description, or does it give them an understanding of what each group does individually? I can't help but draw the conclusion that it's all extremely vague.

Mr Caplan: If I could —

The Chair: Mr Caplan, we have another response as well waiting from Mr Innocente.

Mr Innocente: Sorry, Mr Caplan. Just to help our counsel, since this is more a technical issue, when you asked the question, "Codes and standards — how will you know what an individual can do?" I look at my own practice, civil discipline, and I have to work within codes and standards. I have to work within municipal by-laws and regulations every day, and they vary from municipality to municipality. So I know very clearly what, as civil, I have to work with. In the building codes it's very clear what we can and can't do. In the chemical area I'm sure there are chemistry rules and regulations. So it's not for OACETT to say exactly where those limits are other than that they're defined somewhere else. One of them is the engineers act and one is the Architects Act. We obviously can't do engineering, we can't do architecture, but what we say our members should and can do is what's allowed in the current regulations.

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Mr Caplan: I have a quick question for one of the other presenters, and that's Mr Pearson from the geoscientists.

I understand from you comments that you're in support of the act. First of all, I understand from your comments that a lot of work is being done in scope of practise arising out of some circumstances that happened previously, but will your association be coming forward and looking for description of work to be placed into your titles act as a result of the precedent being set in this bill today?

Mr Pearson: In terms of formulating what we would propose to have in an act, we would be looking to have a definition of "practice" following the precedent set in engineering and architecture. That would be the approach we would be looking at. This type of precedent has been well established for our profession in other provinces and it has largely followed the engineering approach for the definition but obviously for geoscience. Clearly, we would look at what is proposed in these acts to see what sort of impact it would potentially have. I think you'd be back to the same point that was mentioned previously, that this is not defining a legal scope of practice for a certain profession like engineering. If we have an act with a definition for professional geoscience, which is certainly our intention, then that would define the bounds for where a geoscience technician or technologist would also be practising. So it would have exactly the same effect as for the engineers and the architects that presently exists.

Mr Caplan: Could the description of work that appears in this bill be applied to a geoscience technician or technologist as well?

Mr Pearson: I don't see any reason why not. It's written in more or less a generic sense, trying to define the boundary between what a licensed professional does and what a technician and technologist does. It basically relies on the particular legislation that would exist in a different profession, again, the engineers, to really define what that scope of practice is. So I don't think, in my understanding of law, that in a right-to-title act you're able to define a specific scope of practice in detail. That is always in government legislation under licensure. From our point of view, the chief advantage of this definition is defining that boundary, but the scope of practice for a different profession would be defined in the government act.

The Chair: Would committee members like to wrap this up.

Mr Shea: I've got a couple of questions, so I can get them very quickly.

To the professional engineers, Ms MacDonald, when I meet someone and they give me a business card and they have the "PEng" designation on the card, what am I getting?

Ms MacDonald: You're getting a licensed professional engineer.

Mr Shea: Having said that, what does that word "engineer" mean?

Ms MacDonald: How detailed an answer do you want?

Mr Shea: Let me put it in lay terms. I'm just a layman so you'll have to help me through this. I want to do some electrician contracting. Is it possible I could have somebody who's really specialized in mechanical engineering?

Ms MacDonald: You would want to get somebody with a speciality in the field that you're doing, so you would want to get a PEng with qualifications in that area.

Mr Shea: So there are different streams or different specialities within that.

Ms MacDonald: Yes.

Mr Shea: That's all I wanted to get at. Thank you. I just wanted to make sure I had it on the record that there are those streams.

They're not designated. You don't go around saying, "PEng, mechanical" or "PEng —

Ms MacDonald: No.

Mr Shea: That may be a way to resolve some of the issues before us today. I suppose if somebody's got a concern with a certification designation, you say, "architectural technologist" or whatever. I suppose that's one way you could proceed. Then everyone's very happy to say, "Gee whiz, I'm all the same but I've got 'something special,'" but that hasn't come before us today so I can't go there.

A question, then, to the legislative counsel. If the legislation that's before us is approved today, with the amendments that the parliamentary assistant wants to put forward to resolve the issue of concern to the professional engineers, does this have retroactive aspects that in effect require everyone in the province by a certain date to use the same standard designation?

Ms Laura Hopkins: No, sir, it doesn't.

Mr Shea: So I still continue to grandfather everybody with different designations?

Ms Hopkins: It only restricts the use of the four designations that are set out in the statute and they're already restricted by virtue of the 1984 private bill.

Mr Shea: Thank you. I have no other questions.

Mr Frank Sheehan (Lincoln): I'd like Mr Bruce Wells to come up, please. I just want to get some things on

the record. Has OACETT encroached on any of AATO's titles as set out in their bill, section 9(1)?

Mr Wells: No, sir, we have not.

Mr Sheehan: I'm looking at a licence certificate here, a membership card, albeit it's back in 1995, and one expired December 1998. You have "engineering technician, architectural." Does that encroach?

Mr Wells: If you go back to the hearings when this act was founded, when the Architects Act was promulgated, you will note that I asked for amendments and specific clarification, and Mr Shea and I had some interesting dialogue on that. The rewording supplied from legislative counsel is very clear on that. I could pull it out, I'd have to find it, but basically what it said was, "You, OACETT, are not allowed to use the terms 'registered building technician,' 'registered building technologist,' 'architectural technician', 'architectural technologist.'" When further queried, and Mr Shea was very involved in resolving this, the question was again repeated. It's on page 185 of that testimony and it basically said, "That's all that you are protected," and that's what we have consistently said. We have not used designations that we have not used. We are simply doing what we have been doing since 1962, and we were very much assured by that committee at that time that we could do so.

Mr Sheehan: Mr Adams has had some concern, and I had a conversation with you last night. Have you undertaken to expunge all the offensive references in your literature?

Mr Wells: Yes, we have. We're not doing this because we're forced to; we're doing this because we're trying to be a good citizen. We have had, as you know, letters from their lawyers threatening to sue us over the terms that we feel we can use. We have taken the initiative to clean up on our Web site where there have been references to "architect" and "architectural." If you take our by-law 18, which was approved by our annual meeting in May, you will find that all references to "architectural" have been taken out of it. When you see the 1999 membership cards that will be coming out — you haven't seen them yet because we haven't got them out the door — I can assure you that references to "architectural" have been taken off those cards too.

I have not done that because of this hearing or anything. I'm an executive director of a multi-million-dollar association and when we get threatened to be sued on four occasions by lawyers, one gets a little cautious of what one puts on documents. We took it out for that reason.

Mr Sheehan: So we can't attribute any high motive there.

Mr Wells: No.

Mr Sheehan: I have a question for your lawyer, if I may. You made the statement, "It's a private members bill, therefore it has no penalties or no offence," but in section 11(8) it says, "A person who contravenes any provision of this section is guilty of an offence."

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Ms Nelligan: Perhaps my statement was a bit broad, Mr Sheehan. Under right to title legislation, to use a certified title in an unauthorized manner is an offence but that is the only offence that's created under the act.

Mr Sheehan: What's the remedy or what's the penalty?

Ms Nelligan: It would be up to the association to bring an action under the Provincial Offences Act in court to have —

Mr Sheehan: So it's a civil action?

Ms Nelligan: Yes.

Mr Sheehan: A question or two and then I'll turn it back to Mr Wells. Will this designation and clarification you're getting on this assist any Canadian members of yours in NAFTA, free trade?

Mr Wells: Yes. We have agreements through the Canadian Council of Technicians and Technologists, of which we are founding members with the UK, at this point. We have been working with the US. We're now working with the Washington Pact company countries to expand in there. So yes, it will help in this regard.

Mr Sheehan: How does it help?

Mr Wells: It starts to clarify the fields in terms of who does what, the titles used. These designations are tied into agreements that come at national levels. You don't make agreements with various countries without having some standard. Accordingly, some of the things that we need to do, like designation-certified technologists, have to have some kind of standardization across the country, as do CETs and AScTs. I'm not suggesting to you that it's perfect, but we have tried to clarify that stuff and are working towards it.

Mr Sheehan: Mr Adams, following on Mr Caplan's query, I perceive, when I look down this list that you provided me, there are areas of expertise that are not engineering in nature, nor are they essentially scientific, yet they would I think require a certain degree of certification or recognition that there is an expertise involved. Would you agree with that statement?

Mr Adams: I agree with the principle of registering people in particular areas. But do I agree with a generic title without a core competency? Unlike the professional engineer —

Mr Sheehan: I don't want any more sermons. This thing has gone on too damn long. I'm sorry to cut you off but I've listened intently for two weeks now. The point is, and I come back to what the professional engineers' lawyer said, they have "professional engineer" and then you can have a competency in electrical or mechanical or whatever. I don't understand why you would insist that there cannot be a certified technician and then go into something that is not scientific and is not engineering in scope, so why would you deny those people that right to have "certified technician"-whatever?

Mr Adams: Would you like me to respond?

Mr Sheehan: As quickly as you can, please.

Mr Adams: As I was mentioning before, because they are a professional engineer, you understand that they've gone through a period of education and that they are now recognized as a professional engineer in Ontario. The certified technician, when you're taking it by itself — the

"technician" title is used and different associations have different levels of educational requirement for that. There is no standard in the industry for what the educational requirements of a technician are, unlike a PEng.

Mr Sheehan: OK, but it was pointed out by the lawyer here that there are codes of practice and standards that go with setting yourself up, say, as a marine technologist or whatever. Am I not correct that these codes of practice apply and they're recognized by the industry?

Mr Adams: The industry doesn't understand by itself what a certified technician is.

Mr Sheehan: Let me ask you another way, then. Do the people in the industry or in the business have an argument with any of these titles that are set out in section whatever of this bill? If I am in the construction business and I want a technician with a specific set of skills and I see somebody is a certified technician-whatever, does that mean to me that is somebody who is knowledgeable?

Mr Adams: If "certified" had a descriptive word, then yes, you'd know an architectural technologist or technician would be coming with an architectural background; you'd know an engineering technologist or technician would be coming with an engineering background.

We're not disputing, I might add, the use of the word "engineer" or "engineering."

Mr Sheehan: I'm going on the "certified technician" and I can see lots of areas where, other than them incorporating a list of names as long as my arm, you're not going to have it. So there has to be one cap list dash such-and-such and then everybody is going to understand it.

Mr Adams: But are they all in engineering or are they in something totally different?

Mr Sheehan: I already made that point. I look down your list and I see things that are not engineering in nature, nor are they scientific in nature, and yet they require a whole host of skills. For example, somebody who is operating controls — computerized technology on controlling heavy equipment or machinery in a factory — not an engineer, not a scientist; a technician. So I don't have any problem with "certified technician."

Their bill has been around since 1984. Yours has been around since 1996. Has there been a big mass of complaints or a whole host of complaints made that people don't understand these titles?

Mr Adams: Actually, it is a large concern with our membership, and certainly in the industry, as to what a technician is. By having specific descriptions and a title that explains what it is, you make it easier for the public to understand whom they're employing, and the more vague you become —

Mr Sheehan: With respect, you said your members. Have you canvassed this list of names, this list of associations? Is this paper accurate, that there are 10 different associations, over 112,000 people, who have no problem with this bill? Have you canvassed these people to find out why they have no problem?

Mr Adams: They're not our association. We've canvassed our association. That's whom we're here representing.

Mr Sheehan: We're dealing with public concern and perceptions here. I'm concerned, as a representative of the public, whether or not what you're presenting has the complete picture for me to digest.

Mr Adams: I appreciate your concern.

Mr Sheehan: I think that just about kills me.

The Chair: Are the members of this committee ready to vote?

Mr Sheehan: Can we have the amendment, please?

The Chair: We will. First of all, we do that in clause-by-clause. Are the members of this committee ready to vote? We are voting on Bill Pr25, An Act respecting the Ontario Association of Certified Engineering Technicians and Technologists. The sponsor is Mr Baird, MPP.

In keeping with procedure, I wish to collapse section 1 through section 7. There are no amendments for these sections. Shall sections 1 through 7 carry? Carried.

Section 8: Do I have an amendment?

Mr Hardeman: Yes. I move that paragraphs 5 and 6 of subsection 8(2) of the bill be struck out.

The Chair: Shall this amendment carry? Carried.

Shall section 8, as amended, carry? Carried.

Shall section 9 carry? Carried.

Section 10: Is there an amendment?

Mr Hardeman: Yes. I move that subsections 10(5) and (6) of the bill be struck out.

The Chair: Shall this amendment carry? Carried.

Discussion?

Mr Sheehan: I don't want to discuss. I'm just trying to follow the major numbering.

The Chair: Just backing up, we did vote to carry this amendment to section 10. Is that correct?

Interjection: Yes.

The Chair: Shall section 10, with that amendment included, carry? Carried.

Further amendments?

Mr Hardeman: I have a motion. I move that subsection 11(3) of the bill be amended by striking out "or as a professional applied science technologist" in the fourth and fifth lines.

The Chair: First of all, shall this amendment carry? Carried.

With respect to section 11, do you have further amendments?

Mr Hardeman: Yes, I do. I move that subsection 11(4) of the bill be amended by striking out "or as a professional certified engineering technologist" in the fourth and fifth lines.

The Chair: Shall this amendment carry? Carried.

Anything further on that?

1150

Mr Hardeman: I move that subsections 11(5) and (6) of the bill be struck out.

The Chair: Shall this amendment carry? Carried.

Mr Hardeman: I move that subsection 11(4) of the bill —

Interjection: We're already at (7).

Mr Hardeman: Oh, sorry.

I move that subsection 11(7) of the bill be amended,

"(a) by adding 'or' at the end of clause (a);

"(b) by striking out 'or' at the end of clause (b); and

"(c) by striking out clause (c)."

The Chair: Shall this amendment to section 11 carry? Carried.

Shall section 11, including these several amendments, carry? Carried.

Section 12.

Mr Hardeman: I move that subsection 12(1) of the bill be amended by striking out "a certified engineering technologist, a professional applied science technologist or a professional certified engineering technologist" in the third, fourth, fifth and sixth lines and substituting "or a certified engineering technologist".

The Chair: Shall this amendment carry? Carried.

Are there further amendments to that section?

Mr Hardeman: I move that subsection 12(2) of the bill struck out and the following substituted:

"Same

"(2) Subsection (1) does not authorize a person described in that subsection to provide services that only persons authorized under an act of Ontario or of Canada are permitted to provide."

The Chair: Shall this amendment carry? Carried.

Mr Martin: Just before you move acceptance of section 12, I want to put on the record that I won't be voting for it because I think it creates a problem in the industry that does not move forward in the area of clarifying just exactly what different categories within a profession do. I find it disappointing that the groups that are here today weren't able to come together to find some way resolving this.

I think the idea of an umbrella piece of legislation somewhere down the road that covers all of this and gets the different professions together to decide who does what so that the public can be better served re greater clarification would be a good thing. I think, having listened to the discussion both last week and this week, that this section further entangles this and scrambles it in a way that will make that exercise more difficult when we finally get to it.

I will be voting against section 12 and, because of that, ultimately against the bill.

The Chair: Thank you, Mr Martin. Further discussion on section 12?

Mr Caplan: I recommend that section 12 be struck out. It is in my opinion not appropriate, from a public policy perspective, to include this kind of language in a private bill, this type of definition of work. Further, if you take it to its ultimate conclusions, scope-of-practice legislation ought to come from the ministry. I have no argument with OACETT. I think it's quite laudable that they've brought this to the fore and have been pressing for umbrella legislation.

I don't believe that the process is well-served, that there will be conformity with all the other associations and interested parties as there should be. I do not believe that this will provide clarity. I also have some significant concerns about the precedent this will set, not just in the design and technology industry but in all particular title bills.

I predict that this committee will see several such bills coming forward asking for the description of work to be placed in those bills. This committee will be making ad hoc decisions on a case-by-case basis, and I do not believe that is appropriate, so I will not be supporting this section.

The Chair: Further discussion on section 12.

Mr Sheehan: Relative to the inclusion of that section, it's not really necessary in the sense that the activity that it's setting out to preclude is already precluded under the Professional Engineers Act, for example, or the Architects Act. What you really have is a prohibition to do something that's already prohibited.

We had some extensive conversations with the Red Tape Commission's lawyer on this subject last night and it was felt that it has an added strength or an added clarity for the public who may not be familiar with the other acts. That's why, from my perspective, it should be included.

The Chair: When we vote on section 12 I should ask for clearly a show of hands.

Do you have further discussion on section 12?

Mr Hardeman: For the record, Mr Chairman, in support of section 12, it does not mean that I as an individual disagree with umbrella legislation. I just see absolutely nothing in this section that would prohibit umbrella legislation to be drafted and be put through legislation to deal with them all. I think it related to my question about this being so generic that you would never make anything more generic than this, and would imply to me that if you brought in umbrella legislation, it would tighten up this definition. This would not inhibit that process from happening. Since this is the way the applicant proposed the bill, I see absolutely no reason not to support it as it presently is amended so the associations can all carry on working towards drafting umbrella legislation that would cover them all.

Mr Curling: Mr Chairman, I'll be very short. I'm quite surprised, with great respect to the parliamentary assistant — having recognized the fact that you see that umbrella legislation should come forward from the ministry. Maybe that's where the legislation should have come forward, recognizing that they wouldn't have allowed this private member's bill. You are then pointing out that you are not against it; you accept this one. I feel it's an unnecessary exercise that we could have accomplished through main legislation.

The Chair: Shall section 12, with the several amendments, carry? I'd like to clearly see some hands up on this vote so we're positive on this one. Those against? Carried.

Continuing on, I wish to collapse sections 13, 14, 15 and 16. Shall sections 13 through 16 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Could I ask for a show of hands? I heard a no. Shall the bill, as amended, carry? I wish to see a show of hands. Those opposed? Carried.

Shall I report the bill to the House? Yes.

I wish to thank the applicants and the interested parties and declare this first order of business closed.

Mr Wells: Thank you, Mr Chair. I just want to apologize for taking so much of your time.

The Chair: Thank you.

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CITY OF KINGSTON ACT, 1998

Consideration of Bill Pr22, An Act respecting the City of Kingston.

The Chair: I wish to continue with the second item on the agenda, Bill Pr22, sponsor MPP John Gerretsen, Kingston and The Islands. I would ask the sponsor and the applicants to approach the witness table.

Mr Martin: On a point of order, Chair: I would like a ruling from the Chair. Bill Pr22, 1998, sponsored by the member for Kingston and The Islands is, in our opinion, out of order. I refer to Beauchesne, section 1055, which states that there are four principles which have been followed in determining whether a bill is properly a public bill rather than a private bill. The first is that the matter is an issue of public policy.

Bill Pr22 allows the municipality, under section 6, to delegate to corporations initially owned by the municipalities any of the council's or the city's powers or duties relating to the provision of a municipal service. This affects a very wide range of powers that are normally subject to the Municipal Act. It also does this in a way that is very sweeping and would set a precedent for the conduct of municipal government in this province.

One particular requirement of the Municipal Act that could be affected is the requirement under section 55 for a municipal council or a local board to hold public meetings. Bill Pr22 specifies in subsection 5(3) that the municipal corporations created by the act are not to be considered local. Local boards are required to have open meetings.

Beauchesne's second criterion is that the bill should be public if it proposes to amend or repeal public acts. I would contend that the references made above also fit this criterion. I would also ask the Chair to note subsection 7(6) of Bill Pr22, which allows money to be transferred to the new corporations from various reserve funds despite various acts, including the Development Charges Act, the Municipal Act and the Public Utilities Act.

Beauchesne's third criterion refers to the magnitude of the area and the multiplicity of the interests involved. Since the bill refers to virtually the entire scope of municipal activity in the newly amalgamated city of Kingston, it in our view fits this criterion.

Finally, Beauchesne's fourth criterion is that the bill, though partly of a private nature, has as its main objective a public matter. I think I've made it clear in my previous comments that this is the case. I would ask the Chair to please rule on those points at this time, if you would, before we move on.

The Chair: Thank you, Mr Martin. We do have some information with respect to a ruling of the Speaker of the Legislature. I would ask our clerk to better explain. It happened yesterday, did it?

Clerk of the Committee (Ms Anne Stokes): The standing orders do allow for bills that don't comply with standing orders to be referred to the Legislative Assembly committee. In this situation, this bill has been referred to the regulations and private bills committee. The Speaker ruled on this point of order in the House yesterday and he felt, in his opinion, although he didn't have much time to review it, it was a matter for a private bill.

The legislative counsel, I believe, has some information that can clarify that, as to whether it's properly a private bill or not and can address that.

I would also just like to bring to your attention that this bill has been referred here. There's now a point of order as to its appropriateness for referral here, whether it is properly a private bill. It's a procedural issue and the question is, is this a subject matter for a private bill?

The committee has the absolute right to determine that today, notwithstanding what the Speaker said yesterday. You can take the information from legislative counsel or you can make your own decisions. You have the absolute right to determine in your decision whether this is properly a private bill and belongs here for consideration. That's something for you to decide.

Perhaps I'll turn it to legislative counsel.

Ms Hopkins: The issue is a procedural issue so I don't intend my comments to be about the merits of the bill, just about the procedural issue.

The bill does three things. It broadly addresses financial issues in the municipality, the method to be used to deliver certain municipal services and a legal issue relating to the appointment of municipal staff.

Municipalities in law have only the powers given to them under statute. Powers are given to all municipalities under such public statutes as the Municipal Act. Private bills are used for two reasons in connection with municipalities. They're used either to give special powers to a municipality, powers that a municipality doesn't have under the public legislation, or to create an exception to the public law. An exception might be in the nature of giving a municipality a different power or imposing different procedures than the procedures established under the public legislation.

Sometimes these special powers or these exceptions are matters of great importance within the municipality. A private bill can deal with a matter that is of great policy importance within the municipality. The procedural question for the committee to decide is, does the bill deal with policy matters that are not best considered by this committee but policy matters that are best considered primarily by the assembly as a whole?

As members of the committee know, private bills have a special, simpler process. Once a private bill is introduced in the House, it's referred to this committee and this committee scrutinizes the bill from both a policy and a legal perspective. Once the bill is reported from this committee, usually the bills are not debated at second or third reading; the policy consideration has occurred in this

committee. In contrast, public bills are considered fully by the assembly both during second reading debate in principle and during clause-by-clause in standing committee.

The question for this committee is, is it more appropriate that the policy issues in this bill be considered in this committee or by the assembly as a whole? I believe there is no precedent for a private bill to be ruled out of order on the grounds that it considers important issues of public policy more appropriately considered by the assembly. An example of a private bill that considered issues that members of the public might consider to be important is a private bill for the city of Windsor a few years ago regulating the production and transportation of explosives through the municipality. This was an important issue within the municipality and it had an effect on people outside the municipality as well, including an effect on people outside the country. It was considered that this policy issue was appropriately considered as a private bill instead of in the House.

I'm not able to offer you any advice beyond the fact that that is the fundamental question to be considered as a policy matter for you today.

Mr John Gerretsen (Kingston and The Islands): I knew the point of order was coming. I wasn't quite sure where it was coming from. I haven't even had an opportunity to introduce the delegation that's here today.

I would just note that the Speaker did say, and I'm quoting from his ruling yesterday, "it may be that the standing committee on regulations and private bills, after considering the bill, may find that the subject matters unfit for private legislation."

I would request, Mr Chair, since we have a delegation here from the city of Kingston, as well as some people from the Kingston area who have objected to the bill in this form, that this committee give the courtesy to these people to at least listen to their concerns and then the committee can decide itself as to how it wants to proceed with the matter.

There have been some concerns raised, but I believe, since there's a rather substantial delegation here from the city and there are a number of people here as well who have contrary viewpoints, that the committee should give these people an opportunity to be heard on this matter.

The Chair: Further information, Mr Hardeman.

1210

Mr Hardeman: I'm not sure that it's further information but it is speaking to the point of order about whether this bill is rightfully before this committee. I think the Speaker's ruling yesterday is quite telling and in fact the bill is in order and the committee can deal with the substance of the bill in any way the committee deems appropriate. But in order to deal with that, one has to first of all look at and consider and understand what's in the bill before one makes the decision that the content of the bill is inappropriate.

As legal counsel suggested, the content of the bill may very well not be the type of policy or the type of thing that the committee deems appropriate to be passed in a private bill. I think we would then have every opportunity to speak to that and to vote against what is being proposed. But I don't think that should inhibit the committee's ability to consider the bill, to just suggest that someone who brought a private bill forward does not a right to have it heard by the committee and the content considered by the committee. I think the Speaker in his ruling made that reasonably clear, that the committee does have that ability.

I want to make sure that the record is clear. That does not mean I support the content of the bill, but I do believe that the committee has an obligation to hear the presentations on the bill.

Mr Shea: I've indicated that I'm prepared to stay here and listen as long as necessary, and it may be that the clerk would provide some nourishment for the members of the committee before everybody totally collapses. We have until 1:30, at least, when the division bells ring for the House to gather for other business.

I am personally starting from the position that this is more rightfully posited within the Municipal Act and it is through the appropriate committee where public hearings might well be convened, but I have an open mind. I say this by way of giving the deputants an opportunity to know where I start from. They may wish to address that in their comments, on why it's more appropriately seized in this committee or not. I'll be guided by the comments.

Both the clerk and legislative counsel were very professional in their comments to this committee, and we will listen carefully. I think we ought to listen carefully.

All I would plead with the deputants is the hour and to give them the best use of that time, knowing that the bells will be ringing shortly. We can't do more than that. You've heard my comments earlier today where I had hoped we would be able to expedite matters on another issue.

That's my comment by way of establishing the ability to listen. I am also aware of legislative counsel's comments about precedent, although I am always pleased to establish precedent.

Mr Curling: The Speaker has ruled on the matter before us to say it was appropriate to be dealt with in committee. Having done that ruling and having it here, I am just wondering if we have to question the Speaker's ruling that it's OK here. Having heard from the clerk and also from legal counsel what the procedures are in the past with private members' bills, I have no problem at all in having this come forward and listening to this presentation now.

The Chair: Mr Martin, you had further discussion on your point of order?

Mr Martin: Yes, just a few comments on the point of order. I have listened to the advice and information of legislative counsel and the clerk and suggest to you that this is more appropriately debated someplace else, in the larger chamber, where we all have a chance to say our piece and the fullest process of this place is allowed, which is the various readings and the time that's allowed for debate and then public hearings.

The change that is being asked for here is huge and it's fundamental. A municipality is a creature of the province,

of the provincial Legislature. As such, it needs to come back to that body if it's going to change the way it does business in the kind of way that is suggested here, which will set, I suggest to you, quite an interesting precedent for other municipalities as they try to deal with the very difficult challenges they've now been charged with.

This Parliament has gone through a very fulsome and difficult exercise of deciding who does what, what the provincial government does, what municipal governments do. That was done in full public view in the House with massive debate, across-the-province hearings and all the rest of it.

I suggest to you that what is being asked by the municipality of Kingston now is that they be allowed to do the same thing, which is to turn over to some other body what they have been charged to do by legislation, which takes some responsibility off of them re accountability to the public, ultimately. That requires more than the rather short bit of discussion we are allowed here by the two hours that we have on Thursday mornings.

This is huge. It's a fundamental change in the way that we do democracy in this province. I'm not sure whether spending time here this morning debating this or listening to the arguments that are made is not simply duplicating what could more appropriately be done at some other time in a larger forum.

I would suggest that we take a vote on this right away.

The Chair: You have a point of order that's before the Chair right now. I would like to rule on your point of order and not on a motion or a vote. That's in the hands of the committee.

With respect to your point of order, Mr Martin, I feel this bill should be in the hands of this standing committee and I concur with the ruling of the Speaker. I now wish to continue. This bill is in the hands of the committee with respect to its future.

Mr Martin: Could I move a motion then that this bill be referred back to the larger House?

Mr Shea: May I respond?

The Chair: I will entertain discussion. I just want to repeat the motion.

Mr Hardeman: On a point of order, Mr Chairman: This relates to the motion that was just moved. I would question the ability of a committee, without discussion or without hearing the application, to refer it to the House. As a process, the Legislature referred the bill here as a private bill. We'll have to ask the clerk about the appropriateness to just pick it up and refer it back without any discussion or without any recommendation. I wonder whether that's appropriate.

The Chair: You're suggesting the motion is premature?

Mr Hardeman: Yes. I would think the motion is out of order.

The Chair: I would like to ask for some advice on that from staff.

Clerk of the Committee: The committee does have the right to consider whether this is the appropriate place to consider this bill, whether it's properly a private bill. A motion can be made to that.

Mr Hardeman: Madam Clerk, that was not the motion. The motion was to refer the bill to the House.

Clerk of the Committee: Properly, if the bill is not considered here, then in effect, it would not go forward. It would have to be reintroduced and it could be reintroduced through a private bill. It could be reintroduced as a private member's bill.

Mr Martin: I would beg your indulgence to have a motion submitted such that that's exactly what it is we're doing here. We're asking the committee to decide on the appropriateness of this being dealt with at this level as opposed to being reintroduced at the larger table.

Mr Shea: I understand what Mr Martin is trying to do, and I have some sympathy for his point, but I go back to my opening comments, so I'll make a motion that we defer consideration of that motion until the applicants have had an opportunity to make submission to this committee, but in no case later than 25 minutes past 1 of this clock today.

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Mr Curling: Have you got the previous motion?

Mr Shea: I've got an amendment to his motion. I've done a deferral motion, which takes precedence over the motion. That's all.

The Chair: I'll ask for advice. We'll have to wait a moment for advice from the clerk on this procedure.

Mr Martin: On a point of order, Mr Chair: In that time, if the deferral is in order, we should make sure we hear from both sides.

The Chair: I would ask both Mr Shea and Mr Martin, since these motions are outstanding, could we go forward with the sponsor?

Mr Gerretsen: Thanks very much, Mr Chair —

The Chair: Another point of order. Mr Hardeman.

Mr Gerretsen: I've seen methods of trying to silence me in this House, but this is the best one yet.

Mr Hardeman: On a point of order, Mr Chairman: In a matter of process, I would suggest that it's out of order that the Chair has a motion on the floor, with a request for deferral of that motion and waiting for a decision on that, and is proceeding with the activity until a decision on that is made. I don't believe that's an appropriate approach.

The Chair: I've been advised that the vote should be taken on the original motion.

Mr Shea: Rather than the deferral?

Clerk of the Committee: It would require the unanimous consent of the committee to defer consideration of a motion.

Mr Shea: When was that rule written? Let me table a request and ask for that in writing somewhere along the line. I want to see that. Who's rewriting the rules?

Mr Martin: Do you want to ask for unanimous consent?

Mr Shea: I still want unanimous consent. I still, obviously, have put it forward.

Mr Martin: Agreed.

Mr Caplan: Agreed.

Interjections.

The Chair: I recognize unanimous consent.

Mr Shea: Understanding that we will vote no later than 25 after 1.

The Chair: I understand there was unanimous consent. Is that correct?

Interjection: No.

The Chair: There was not unanimous consent.

Interjections.

Mr Gary L. Leadston (Kitchener-Wilmot): I'm not in my proper chair but, Mr Chairman, with respect —

The Chair: Maybe sit in your proper chair. I just want to repeat that I heard unanimous consent on that deferral motion.

We now go to consideration of the original motion from Mr Martin.

Mr Martin: Obviously there wasn't unanimous consent.

Interjection: If you deferred it, we can't consider it.

The Chair: I declare the motion deferred. I wish to request the sponsor, MPP Gerretsen, Kingston and The Islands, to comment and please introduce the applicants.

Mr Gerretsen: Let me first of all introduce the members of the delegation that travelled from Kingston to Toronto this morning for the 10 o'clock hearing of this committee on regulations and private bills.

To the left of me is Mr Gary Bennett, mayor of the city of Kingston; to the left of him is Diane Corcoran, the city solicitor. Next is Mr Robert Little, who is the solicitor for Utilities Kingston; and next to him is Mr Jim Keech, the manager of Utilities Kingston. Also in the audience we have Mr Gardner Church, who is consultant extraordinaire to the city of Kingston, both old and new.

I will leave it to the city and Mayor Bennett to make the presentation with respect to the bill. I know there are at least two other individuals in the audience who may want to make some comments as well — one being Beth Pater and the other individual being Stewart Fyfe — whom I'm aware of from the Kingston area. There may be others as well. I'll turn it over to the mayor.

Mr Gary Bennett: I have a written statement of my comments, and I'd like to have it distributed at this point in time, provided this won't create a procedural wrangle.

Mr Caplan: You never have that at council.

Mr Bennett: Actually, I thought I was at my council meeting for a moment there.

In the interests of time, I will not read directly from the comments. I recognize the limited time available before us, and there has been a suggestion that if you're going to hear one, you should hear all, which I concur with. I appreciate the committee's consideration of our delegation here today.

I'd like to, first of all, begin by suggesting that there are three separate issues within the private member's bill that the city of Kingston is encouraging the committee to support, and it's imperative that two of the sections be given consideration by this committee today. The other issue, I think the issue that is the subject of what will probably need to be wider public consideration, is the incorporation of municipal entities. If I could just speak to the two issues that in my mind are quite critical, I would encourage the committee to give consideration to at least these issues today.

The first issue relates to the issue of governance, which is under sections 2 and 8. Essentially, what these issues revolve around is, when the city of Kingston was created, there was a consideration that we would create a board of control within the structure of the city of Kingston. It was also our intention that this board of control would be governed on the basis by which a simple majority of council could overrule decisions of the board of control. The Municipal Act speaks to the fact that the board of control requires a two-thirds consent of council to overrule their decisions.

We were modelling our community along the lines of the London, Ontario, board of control, which is the only other board of control in existence. We assumed that the Municipal Act was in conformity with the only other board of control in existence. That was not the case.

When the minister created the new city of Kingston, in the implementing order it gave the board of control of the city of Kingston powers in accordance with the Municipal Act, which requires a two-thirds vote of council to overrule decisions of the board of control. This has created a considerable degree of consternation on my council.

Through significant discussion over the previous six to eight months, council has agreed that perhaps we need to be a council of equals, and as a result of that we're asking under sections 2 and 8 that decisions of the board of control can be quite simply overruled by a simple majority vote of council. It is hoped that the committee would concur with the wish of council and support those sections.

The other issues relate to sections 3 and 4, which are financial issues. Within the restructuring order itself when the city of Kingston was created, there was a condition within the restructuring order which required the city of Kingston to reduce its 1998 operating expenditures by at least $16 million from what the budget was in 1996. In hindsight, the agreement in the order should have kept open the possibility that the years 1998 and 1996 would have been comparable years. A lot has occurred in 1998. As it happened, the city of Kingston confronted an ice storm, with its attendant costs and revenues, and there was also the transfer of new expenditures and revenues from the province. As well, there were previous years' deficits that had to be budgeted for in 1998 by the new city of Kingston.

What we did — and I think this is the key point for the committee. The increases that were incurred in 1998 all happened after the expenditure reduction, which was required under the minister's order, was met. In fact, we exceeded the minister's order requirement. We reduced the expenditures of the city of Kingston not by $16 million, as required under the ministerial order, but in the magnitude of $20 million. So, we have exceeded that requirement under the minister's order.

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As a result the reality is, as I've indicated, a variety of externalities and some internalities. The budget for 1998

of the city of Kingston exceeded the 1996 budget but it did not do so until we had met the expenditure target as had been agreed to in the ministerial order. We have concurrence from our legal staff and our accountants, auditors and financial staff that we met the requirement in the restructuring order. What we're asking for now is relief from that requirement in the order. In other words, either the budget of the city of Kingston is illegal or the provincial download is illegal. I hope the committee would concur that it's our budget that may possibly be not in conformity with the ministerial orders, and we're asking for a legal remedy from that.

The final issue, and this is the issue that I'm sure will involve more of the committee's time, is the issue of the incorporation of municipal entities. May I just say at the outset that I think overall the municipality of the city of Kingston prides itself on being an innovative, progressive community. With the creation of the new city of Kingston, we recognize that we have some enormous financial challenges before us. Overall, the new city of Kingston is facing over $200 million in capital demands, essentially capital backlogs that quite simply need to be dealt with for the new city of Kingston.

We have developed, through a significant amount of council debate and public consultation, a document, which is referred to as The Road to Reform. This document spells out a variety of strategies that the city of Kingston believes it needs to pursue in order to develop the financial ability to address this capital backlog. But there's no question that the city recognizes that many of the tools available to it to address this capital backlog are not adequate. This is why we're asking for the same powers as a natural person under these sections of the private member's bill.

We believe there are three ways in which the city of Kingston can undertake the necessary capital investments: We can do so through privatization, in other words, the outright sale of some city assets or services; we can do it through the investment of tax-based funds; or we can do it through long-term partnership contracts which have recourse to the tax base. It appears to the council of the city of Kingston that if we can't afford (b) and (c), we're really left with privatization as our only option.

The Kingston city council, while not opposed to all privatization, believes the city should use other options that are available to every person in society. We quite simply are seeking the ability to enter into equity partnerships in which private investment capital is used to make essential investments in city-owned businesses in return for equity. We recognize that there are implications that go beyond our community in terms of this policy, and we're here today to begin to discuss them. But there's no question, from the city of Kingston's point of view, that this provision would not extend the range of powers, nor would it lessen council's control on civic decisions. The reason we're asking for this and the reason council makes this request is that it will assist Kingston in finding the capital it needs to meet the economic challenges it faces.

I recognize that the committee may find it difficult today to support sections 5 through 7 in this bill, dealing with incorporating of entities, and I would appreciate, first of all, that the member's individual support for raising this matter with the government would be considered. I also ask that if the committee is not prepared to support sections 5 through 7, they be referred to the Minister of Municipal Affairs for a full consultative policy review.

Overall, the implications that are being raised in a variety of quarters probably will not be resolved in this room today, but I would certainly like to thank the members on behalf of all Kingstonians for your attention and consideration of these matters. Once again, I re-emphasize my earlier remarks that if the committee could give consideration to those issues outside the issue of the incorporation of entities, it would greatly assist the city of Kingston.

As there has been some discussion in the local media and in the community about the issue of public consultation on this issue, I would make two final comments. May I state here for the record that the city of Kingston did debate this issue. We developed a document referred to as The Road to Recovery. The document was circulated widely in the community and is available in numerous public locations for public review. We also engaged in two public consultation processes, where we encouraged people from the community to attend, where we could review The Road to Recovery document and explain the path the city of Kingston was embarking on. Regrettably, as sometimes happens through public forums, there was limited public participation in both of those consultations.

The final issue I'd like to raise is the issue of privatization, which quite simply takes me by surprise, I must say to the committee. If the city of Kingston had an agenda of privatization, we would be honest about it. We would tell the community and we would tell our employees that privatization is the agenda of the council of the city of Kingston, and we would proceed with that agenda, in consultation with our employees and the community. This approach we are taking is the pursuit of private capital for public purposes. That, to me, is very different than pursuing an agenda of privatization.

Personally, I do not have difficulty with looking at service areas that municipalities provide and looking at the value that privatization could bring to the delivery of those services, but I recognize that there are many services that municipalities provide that would be inappropriate for privatization. Having said that, that doesn't necessarily mean that therefore all services are inappropriate for privatization. I am not that ideologically narrow not to recognize that it is important that municipalities have to have the responsibility of providing value to their taxpayers, and if there are a variety of services that can benefit the taxpaying public in terms of better value, better service and ensuring accountability and control of those services, councils across Ontario should be prepared to consider them.

This bill is not some kind of a veiled attempt to privatize the services within the city of Kingston. It's

unfortunate those sorts of debates occurred. It's important to remember, and I hope all members agree, that as members of government if we spent more time debating the merits of issues and not the motives behind issues, we would accomplish a lot more in terms of our conduct of the public's business.

I appreciate the opportunity to appear before the committee. I have not read from my statement, but I'm certainly prepared to answer any questions the committee may have.

The Acting Chair (Mr Gary Leadston): Thank you very much, Mr Bennett. Ms Diane Corcoran, do you wish to make a statement?

Ms Diane Corcoran: No, thank you. Mr Bennett has covered all the matters. I'm available to answer questions if need be, but I don't have any further submissions.

Mr Robert Little: I have nothing to add, either.

The Acting Chair: Are there any other interested parties wishing to address the committee? Would you please come forward and identify yourself and whom you represent, please. Would you state your name and title.

Mr Brian O'Keefe: My name is Brian O'Keefe. I'm the secretary-treasurer of CUPE Ontario. On my left is Jim Woodward, who is our legislative liaison for CUPE. We represent several thousand members in the Kingston area, and we represent 180,000 members across this province.

We have great concerns about the implications of this particular bill. I'm going to look at it in three particular areas: first, the issue of accountability; second, the process issue; and third, the issue around privatization.

On the accountability issue, this bill would potentially totally transform municipal government in this province, and it would totally undermine the Municipal Act. We are talking here about moving the delivery of municipal services away from the control of the municipality to corporations run on business principles.

To have this under the control of a Kingston infrastructure group is, to say the least, very frightening. We're not talking about a small number of services here. We're talking about a very broad range of services: water, sewage, gas, electricity, buildings, vehicles, roads, garbage, the airport, transit, customer services, to name but a few.

This is a massive restructuring. This is not the way we normally do business in Ontario. This has huge implications. It means that these corporations will be, to a very large extent, operating totally independent of council. When the public call in to complain about the delivery of a particular service, councillors are not going to be able to adequately respond because they don't have any real control any more over the delivery of those services. That has got really quite frightening implications as far as democratic rights are concerned, and it also leads to backdoor government and doing things in the corridors. That's something we're totally against. The citizens of this province should be very alarmed about this trend towards moving the delivery of our services away from public control. That's the accountability issue, and it's a major one. We're not just talking about a small amount of power here.

I was reading the mayor's document. He talks about the main impetus for this being centred around the municipal utility. I have to tell you, we have municipal electrical utilities across this province that manage quite nicely with the structure of municipal government that we have in Ontario at this particular point in time. Toronto is an example. We have a relationship between the city of Toronto and Toronto Hydro. To make a special case that somehow or other Kingston is different in this regard is really quite erroneous.

1240

On the process issue, I heard what was said here this morning about the procedural part of this, but aside from that, looking at the appropriateness of the policy-making aspect of this, I think it's totally inappropriate to try to deal with issues of this magnitude through a private member's bill. This rightly belongs to the main assembly. Also, it should be put out for public hearings. The public should have full input into matters that have major implications for the way we do business in this province.

At this particular point in time, there has been absolutely no consultation about this issue at all. The first we heard about it were the articles that appeared in the Whig-Standard on the weekend. I think that's where most other people found out about it as well. So not only has there been no consultation at the provincial level, there has been very little, if any, consultation even down in Kingston.

I want to point out that this doesn't only have implications for Kingston; this has massive implications for the rest of this province. If this bill were to pass, it would set all sorts of precedents for other municipalities across this province. That's a major factor that has to be taken into consideration here. We're dealing with a major provincial issue which should be dealt with in the provincial Legislature. To do it by way of a private member's bill is totally inappropriate.

On the issue of privatization, I totally disagree with the mayor. He says he has to have this to avoid privatization. I don't accept that at all. This is exactly the method that was pursued in Britain when they introduced privatization in the municipal area. This was the way they started: the municipalities holding shares and staff members staffing these corporations. It wasn't long before these corporations ended up in the private sector. We see that happening here. I think the control of council has been taken away and we're on a slippery slope here. I don't have to go into all the evils of what privatization can generate. You've got the whole aspect of lowball bidding. Once you get a contractor in there, they've got a captive market. If that particular corporation goes bankrupt or whatever, it's the taxpayers in Kingston, or wherever this might be introduced, who would be footing the bill. You have to take that into consideration.

Our experience with contracting out and privatization is it will lead to significant deterioration in service levels. There are some services that rightly belong in the public sector, and municipal governments have an obligation and

a duty to make sure those services are delivered in the public interest. As far as we're concerned, there are absolutely no guarantees in this.

Once again, I want to reiterate that this is not just a Kingston issue; it's a provincial issue. It has massive implications for the electorate in this province. It should rightly be debated in the main assembly and put out to public consultation.

I urge you very strongly to withdraw this piece of private legislation.

The Chair: Mr Woodward?

Mr Jim Woodward: Mr O'Keefe has covered every point that I would bring forward.

Mr Gerretsen: I wonder if I could make a point of information. This bill has been referred to as a private member's bill. It is not a private member's bill. A private member's bill is a bill in which a private member brings an issue forward. This is a private bill promoted by the city of Kingston which I was asked to sponsor in order for it to be brought before the Legislature and its committee for due consideration.

The Chair: Yes, this is a private bill. Thank you, gentlemen. Are there any additional interested parties that wish to speak to this bill?

Sir, if you could have a chair and identify yourself.

Mr Stewart Fyfe: I'm Stewart Fyfe, a resident of Kingston. I've been involved in local government since 1950. I teach the local government courses at Queen's, and have since 1956. I follow these civic affairs very closely.

I'm going to restrict my comments to sections 5 and 6. In a little aside, I agree with what they're doing at the board of control: the less of it, the better.

Section 6 authorizes the delegation of any of the city powers and duties related to municipal services to corporations. The definition of "municipal services" includes all municipal property. So everything could be transferred. This would be a revolutionary change. Most municipalities could be taken out from under the Municipal Act or other municipally related acts, which are legion, and placed under the Corporations Act, an act constructed on entirely different principles. It would also be a precedent for every municipality in Ontario. There are no significant restrictions on what could be delegated or how that service would be provided in the bill. This bill in effect gives a blank cheque to city hall.

These new corporations would be of two kinds. One kind would be incorporated under the Corporations Act. The city would own all the initial shares and would appoint the directors, who would be municipal employees or agents of the city — I stress "agents of the city." The term "agent" is not further elaborated on, nor what happens after the initial shares.

With regard to corporations under the Business Corporations Act, the bill is silent. It says it can be created, but after that there is nothing except that the initial shares must be subscribed for by the city or another business corporation incorporated by the city. There's no mention of the appointment of directors, reporting or anything else in the bill for that type of corporation. It could be taken to envisage joint ventures and even the sale of the corporation to another body, which would take those powers of the city with it.

The embracing of the corporation to deliver services in the bill is rather curious, when it is remembered that one part of the amalgamation agreement was to do away with as many boards as possible, as they were seen to cause duplication, problems of accountability and of control. The city got blamed for everything, but the power went somewhere else. There were all kinds of different labour agreements and pay scales and accounting processes and all the rest. What seems to be envisaged by the bill is a family of corporations, each with its own staff: executive directors, auditors, whatever.

1250

I believe the committee has received a number of comments on the bill, on the details, but I'm not going to go into that. When so much power is being delegated with so little explanation or constraints, problems are bound to multiply. However, while not going into that length, I do want to speak to a couple of aspects which are troubling.

Why is there a specification of directors? There are two kinds: municipal employees, who are put into a very serious conflict position, and agents of the city, who could be literally anyone. I don't know if an agent of the city is someone who happens to be doing some work for the city and something else — if that makes them an agent of the city, I don't know. The bill is silent. This seriously erodes any concept of political accountability. Conceivably, it could erode council's powers to such an extent that it would be difficult to get candidates to stand for office because the position would have so little to do, so little power.

With regard to drafting the provisions of delegating powers in terms of council, including municipal properties, is it legal to delegate to a corporation the right of entry on to property which building inspectors and building standards officers have? Is it proper to transfer a public highway to another body under the Corporations Act without first closing the street? The bill appears to say so, but I'm not a lawyer.

This goes to the internal evidence that the bill has not been well-thought-through. Apparently, there is a series of protocols and constraints to be developed, but none of them are in this bill. They are only ideas at present, which may or may not be adopted by council and certainly will be modified by future councils. There would be no public discussion of these.

In defence of the bill, it may be argued that such sweeping powers will not be used by council but are necessary to give it flexibility in developing a new manner of providing new civil services. In answer — I think there are two. One is, why ask for everything? Why ask for a blank cheque in a public policy area if you don't need it. Everything is in here, from the town hall to the park bench, to be literally transferred. While this council may give assurances, they can neither bind themselves nor future councils. That blank cheque goes on forever, until

someone changes it. In effect we're being asked, "Trust us with a blank cheque."

While I respect the integrity and motivation of council — I once worked at city hall — the track record of this bill is not good. Discussions of the rationale for this bill have been largely behind closed doors. I try to follow council, but I am unaware of any council debate regarding the need for sections 5 and 6. At city council last night, these three council members said they had never seen a copy of the bill. I think the mayor said he had only read it that day, but I don't want to put words in his mouth. But there was an assurance given that this bill contained nothing of any importance that had not already been discussed. When I asked, council members said, "We never discussed sections 5 and 6."

As an aside, this raises the question of, how do you discuss a legal document, an application to this assembly, which you've never seen? And how can an application for a private bill reach the Legislative Assembly without council's approval of the text? If you examined the required advertisement in the bill, it would give you no idea there was any major power being asked for at all; it was a very minor thing with certain constraints.

I used to have to deal with mortgage insurance, and I discovered very early that when you're dealing with lawyers what is left out is very often more important than what is put in. There are an awful lot of holes in this bill.

The Chair: Are there any additional interested parties that wish to address this committee?

Welcome. Could you please identify yourself.

Ms Beth Pater: Good afternoon. My name is Beth Pater. I'm the NDP candidate in Kingston and The Islands for the upcoming elections.

Interjection: Welcome, Beth.

Ms Pater: Thank you. I have been a long-term observer of all levels of government and I'm very concerned about this bill. I must say, I concur with all of what the previous speaker, Stewart Fyfe, says. I just want to point out a few of my concerns.

I believe this bill moves in a direction that would hinder both accountability and openness of government. Government essentially is not a business. It can be businesslike, it should be efficient, but is should not have to run its departments as corporations to achieve that. Businesses compete with each other; city departments should not. Businesses give preferential treatment to their best customers; city departments most definitely should not. Business is not accountable for serving the public interest; city hall must be. City services should not be privatized, especially in areas that are now being downloaded from the province, services that affect public health and safely.

This bill would open the door wide to privatization. It does not restrict the services. It states that the city would have to own the initial shares, but it doesn't say anything about further shares. I find it very troubling, especially subsections (2) and (3) of section 6, that the board is chosen by the council and are employees or agents of the city. That is so broad.

This bill has far-reaching and undemocratic implications, I believe. Concerns are being raised in Kingston right now by former and current city councillors, those who work in municipal government and those who study it, like Mr Fyfe, and citizens in general. Those concerns must be addressed.

What is the rush to such dangerous territory without public consultation, I ask? This bill goes far beyond the city of Kingston. It affects provincial public policy, and should be given much more time for consideration. If Mr Gerretsen doesn't agree with its content, as was alluded to in the Whig-Standard, I think he should withdraw the bill immediately. At the very least, this committee should be coming to Kingston for a meeting.

The Chair: Are there any further interested parties that wish to address the committee?

Mr Gerretsen: I wonder if I could just make one comment with respect to the last comment that was made, Mr Chairman. I don't believe it's incumbent upon me to withdraw the bill once the bill is within the confines of the Legislative Assembly or one of its committees.

The Chair: We'll go to the parliamentary assistant, MPP Ernie Hardeman, for comments on behalf of the government, and then we'll throw it open to questions from the committee.

Mr Martin: On a point of order, Mr Chair: I'd like a ruling on that.

The Chair: I didn't hear it. Did you say, "Point of order"?

Mr Martin: Yes, a point of order. I'm wondering if maybe the clerk could clarify whether in fact the member can withdraw the bill at this point if he so chooses.

The Chair: Did you hear the question?

Clerk of the Committee: Could you repeat the question? I'm sorry, I was conferring.

Mr Martin: The point that was made by the member was that he, at this point, could not withdraw the bill that he has introduced. Is that true?

Mr Curling: It has nothing to do with not withdrawing; it's that he has no power to withdraw it.

Clerk of the Committee: If I can address the question, the bill has been referred to the committee by the Legislature. It's not in Mr Gerretsen's power to withdraw it at this time. It is here for the committee to consider. The applicant could decide, if they wish, to withdraw or not proceed further with it.

Mr Martin: OK.

1300

Mr Hardeman: I want to commend all the presenters thus far. From the notes I've taken prior to the meeting and now, listening to the presentations, most of the points I wish to bring up on the bill have been presented by the presenters.

First of all, the ministry looks at the bill as a three-pronged bill. There are three specific issues in the bill that we need to address today, the first one being the issue of the board of control and the changes in the voting of the board of control. As was mentioned by the mayor, there was some concern that when the restructuring order was

put in place, the proponents thought they would have a simple majority vote at council to overrule the board of control's decisions, but because of the Municipal Act stating it's a two thirds vote required and that London had special legislation to allow that to be 50%, they found themselves in a bit of a problem.

The ministry's position on it was that at the end of the time frame of the restructuring, if we go to the simple majority vote of a board of control, there would be little difference from, if not identical, to a committee of council. Council would have the ability to eliminate board of control and go to an executive committee of council or some other form of providing the same function. Then they would have a simple majority situation, where they have a smaller group to deal with the issue and then present it to council, and the simple majority rule would then apply.

Having said that, just as with the bill we dealt with earlier this morning, there's no reason not to deal with that issue in this bill. Even though there may be another form of doing it, the ministry has no objection to doing it this way since it has come this far. But I suggest if that is the only item in the bill and the city of Kingston had yet to prepare it, there is likely a simpler way of achieving the same objective. So the ministry does not register any objection to that part of the bill.

I want to skip over the centre one, which is the one that most of the presentations have been on, the issue of the corporations.

I want to deal with the third one first. That's the issue of changing the restructuring order that deals with the savings that the municipality would find in their first budget. It was not quite as explicit in the presentation, but maybe we can deal with that when the question period starts.

The restructuring order not only dealt with savings that were going to be found in the first budget; it also dealt with where those savings were going to be expended. I have some concern. If it was part of the proposal that got everyone on side to agree to this restructuring as to where the savings were going to be spent, directed to a certain portion of the municipality, but after the fact we would come back and say, "But circumstances have somewhat changed; we now want to direct that money, the savings that were going to be found, to a different part or collectively across the municipality," that may very well have been the issue that would have been the stumbling block of not having created the corporation in the first place.

That was one of the solid things that bound the deal together, or it would appear that it may have been. As a ministry, we would really like to be assured that the people who were going to be positively impacted by where that money was going to be sent — recognizing that this change is going to change that part of the restructuring proposal. We would be very interested in hearing from the applicant whether the people in the township part that became part of the new city of Kingston are aware that the benefits they were going to derive from this are going to be achieved in the way they had envisioned.

The third area is the ability of the city of Kingston to set up corporations. We've had considerable discussion about whether this is an issue across the province or whether it's localized to the city of Kingston. I suggest that the present Municipal Act does not deal with setting up corporations. But we should all recognize that the present Municipal Act is a very prescriptive act which says what the municipality can do, so one is to assume that if it doesn't deal with setting up corporations, the municipalities cannot do that.

The province has held considerable public consultation on new proposals for the Municipal Act. The majority of the discussions and the discussion papers on that direct us to the area of not having municipalities setting up capital corporations. A lot of that discussion includes the fact that municipalities feel there may be a need to deal with some type of structure that would facilitate the ability, as Kingston has suggested in this bill, to bring in the private-public sector partnerships to provide some of the municipal services. The ministry has grave concerns about the broadness and the broad-brush approach, as was mentioned by some of the presenters; that this would theoretically allow the total operation of the municipality to be incorporated into a private corporation.

We have many concerns about that. First, all those functions that would be in the incorporated sector would no longer be covered by the Municipal Act but would now be covered by the Corporations Act. They would no longer be required to have open meetings. They would no longer have to have the same public notices for purchasing and selling properties. They would no longer be covered by the safeguards we have for municipalities in their investment approaches. The members of the board, regardless of who they are — and there has been some concern expressed about how they would be appointed — would not be covered by the municipal conflict-of-interest laws and so forth. We have some grave concerns about that.

Generally, the ministry also feels that many of the pluses of doing it this way are achievable under the present legislation in place. You can set up partnerships with the private sector but still have it under the auspices of the local council. So we have some concerns.

We also have some concerns that if you take the assets and transfer them to another entity, the ability of the municipality to function financially in their borrowing and spending needs may be inhibited, because they have no assets as collateral for their borrowing. We have some concerns with that.

The major concern is that it does appear, since the bill allows it to be all municipal services, to take away political accountability for those services. We do not see anywhere in the legislation where the members of the board will go to the public to be elected so the public would have a voice in running that corporation. We have some concern on the broadness of that.

We also have some concern with the issue of the corporation then being allowed to set fees without that accountability. They could set fees at whatever they deemed appropriate as a corporation, with no ability to get back to

the people who they would be responsible to. In all the areas where municipal services are regulated in some way through the municipality, we have some concern that this bill would allow all those regulations to be avoided. One of the presenters mentioned the issue of whether, as a corporation owning and operating the city street, they would still be covered. In our opinion, they wouldn't be covered by the Municipal Act on the obligation to keep the city street as a city street for city purposes.

With that, the ministry has grave concerns. I'm prepared to hear the discussion, but at this point we are not prepared to support that part of the act.

1310

The Chair: We now go to questions from committee members to the applicant, to interested parties or to the parliamentary assistant.

Mr Curling: Mr Chairman, could the mayor come forward for some questions?

The Chair: Certainly.

Mr Curling: Mr Mayor, thank you for coming and for your presentation. I have some serious concerns about the process itself. I'm not being facetious at all, but I know you were elected by the people of the city in a very democratic way. When this private bill was being prepared, was it discussed at all in council at full length?

Mr Bennett: Absolutely. The issue we're dealing with here was the subject, as I indicated, of a fairly comprehensive document that council developed in partnership with senior staff, called The Road to Recovery. In that document, if you read that document — I regret I didn't bring copies to provide the members — it clearly lays out the intent to proceed in accordance with this type of approach to the delivery of certain services within the city of Kingston.

It's my understanding that the government did redraft the final version of the bill before you here, so members of my council do not have copies of the redrafted bill. I was perplexed last night when a couple of members of council indicated that they didn't realize they were the powers we were asking. These are the same members of council who have been asked to sit on a committee to develop the protocols between this entity and council itself, so I'm not sure whether someone isn't reading their reports or what the issue is. There may be other issues swirling around this that go well beyond that, but from my consideration, every member of council had the equal opportunity to be informed on this, and there were not three members of council at last night's meeting who stood up and asked what was going on. There were two; the balance of council looked at me and said, "We're not sure what the issue is, Mr Mayor, but let's get on with it, and good luck in Toronto on Wednesday."

Mr Curling: Was it at any time offered to the people of the city to have some input, direction? These are some dramatic changes happening here. When they elected you and the council, do you think they had an idea that this is the direction the council would go in?

Mr Bennett: There's always a dilemma in terms of public consultation versus leadership. If you sit there and constantly consult with the public, I agree you're sometimes accused of providing no leadership. But in this particular case, the city of Kingston moved slowly on the issue. We developed The Road to Recovery document. I held a press conference, which all the members of the media were invited to attend. In addition, we had two public consultation sessions that followed the release of The Road to Recovery document. Contrary to statements made here earlier, there have been no closed-door discussions of this issue by council. It's been discussed publicly at all times with council.

Part of the issue may be the fact that it's not the way we're used to normally doing business. I concur with some of the earlier statements made here. It is a significant departure from the way municipalities do business. We recognize, and I hope members recognize, that municipalities in the 21st century in Ontario cannot operate, in my mind, to confront the sort of challenges they will, inside a 19th-century legislative framework. I'm encouraged by the fact that the current government is contemplating significant changes to the Municipal Act, but currently the legislative framework we work within is based on the model that was developed in the 19th century. What we're suggesting is, yes, government in the 21st century must conduct business differently. It needs to be conducted, in my opinion, significantly differently from the way it's been conducted in the past.

The issues of accountability are important to all of us, and it's imperative, I agree, that we strengthen accountability in terms of the operation and conduct of government. I don't believe what we're trying to do will weaken accountability. I would be prepared to argue with anyone here that it strengthens accountability. We won't resolve that issue today, but I'm satisfied and I'm committed to the concept of enhancing and improving accountability in government.

Mr Curling: Would you say it's fair to describe this process as that you took leadership, although undemocratic; that it's leadership you have taken?

Mr Bennett: I probably wouldn't concur with the "undemocratic" characterization. There's no doubt that there will be many in the community who, if you're not prepared to share the actual decision with them, believe they haven't been adequately consulted. There's no question that what council's intent is and continues to be is that the committee that's developing the protocols that will determine the relationships between council and these operating entities will be developed by council, and there will be excellent and comprehensive opportunity for public consultation. That has always been our intent. I guess we haven't stated that.

The real issue, in my mind, is developing appropriate protocols between council as an elected body and these incorporated entities. I can assure you that every member of council has the same concerns that have been addressed here today: ensuring that there are strong accountability measures and mechanisms between council and these entities. We are in the process of developing those protocols. I guess there has been some criticism that in the

absence of those protocols, what are you approving? There may be some validity in that position. But from the city of Kingston's position, we're not naive about the fact that there is going to need to be fairly stringent, comprehensive operating protocols between these entities and the council as a public elected body.

Mr Curling: Could people in the city of Kingston wake up tomorrow and find the city owned by a corporation, not by the members they elected, by just one sweep of the pen here today?

Mr Bennett: That would not happen until there was ongoing public consultation about the need to create this entity and what the operating protocols would be between council and this entity. It's important that we communicate to the public that we are strengthening the issues of accountability between this entity and council.

I agree that it would be inappropriate for council to quite simply receive these powers and then just, carte blanche, go ahead and start incorporating services the municipality is involved in. We are compelled to incorporate under the changes to the Energy Competition Act. In this particular case, I'm intrigued by the fact that the government on one hand is compelling us to incorporate in terms of the conduct to the provision of certain services, but in other areas there seems to be an enormous amount of concern about allowing you to incorporate in other fields and in other service areas.

Mr Curling: Just a comment on this: You must have observed what happened in Toronto and the amalgamation, the merger that went on. One of the biggest discussion or concerns that the citizens here had was that it was moving too fast, with not enough consultation. When you were moving in this direction, were you mindful of those facts that we have learned a lot about in what happened with this merging of city of Toronto? Although there are good aspects of it, one of the major criticisms was that they were moving so fast, and the attitude. You must have been thinking, "If I move in that direction in Kingston, some of the fallout could be negative." Were you concerned about that?

Mr Bennett: I recognize, as a student of local government, that the province of Ontario has the constitutional responsibility for the creation, the formation and the operation of municipalities, and I accept that constitutional authority. I agree, though, that public consultation is an important component of any issue that impacts on people's lives and the services they are provided by government.

In this particular case, there will be those who argue that we're moving too quickly. There will also be those who recognize the need for government to quite simply conduct itself differently in the 21st century. I know that my taxpaying public is not prepared to continue to be subjected to ongoing taxation requests from the city of Kingston that grow year after year. They are asking us to be a progressive council, be a progressive community. In many ways we want to be recognized as being on the forefront of public sector restructuring. This is clearly one example of what we're trying to do. It opens up a vast number of issues that go beyond our community. We recognize that. But what we're trying to do as a municipality is recognize that we're prepared to work in partnership with government at the provincial level to create a different operating environment for local government. I think it's imperative for the 21st century.

Mr Martin: In light of the late hour and the fact that we've heard from quite an array of people and certainly the ministry's comments, to not prolong this any further than it needs to be prolonged I would at this point, if it's appropriate, move that this bill not be reported.

We're getting close to 1:25, the time beyond which we would not go, as Mr Shea said in his agreeing to and my agreeing to not have a vote on the motion I put at the beginning of this session. We're now five minutes from that. If we continue down a road of further discussion and questions, we'll go beyond that and have the possibility of nothing being done, this being left hanging out there and people not knowing where they should go next.

If we move quickly to not reporting this bill, I think it sends the message to the municipality of Kingston that they need to take another avenue, perhaps to participate in the larger discussion that is going on now about the Municipal Act and how that might be amended to deal with some of the issues they are challenged with at the moment. I move that this bill not be reported.

The Chair: As I understand, that is a question that the Chair poses to the committee at the end of clause-by-clause: "Shall this bill be reported to the House?" I'll ask for further clarification. I question whether that motion is appropriate.

As I understand it, that motion would be out of order at this point but would be appropriate at that item on our clause-by-clause consideration.

Mr Martin: I suppose I could put it this way, then, and perhaps we won't get support for it, but I hope everybody's recognizing where we're at in terms of time: If we could have unanimous consent to move to this motion and vote on it, we could all get on with our business. The municipality of Kingston then would have clear direction that it needs to find another avenue if it wants to proceed down this road.

The Chair: We should have some discussion on that as well.

Mr Hardeman: On the same issue, I have some concerns. Though I think everyone in the room, including the applicants, realizes that there are grave concerns with the centre body of the bill, there are some items in the bill that are required and seem to be reasonably well supported by the members of the committee. Any suggestion that the bill not be reported or that we totally vote against the bill would also eliminate the ability to deal with the board of control situation and their budget situation. At the very least, I would hope we could not make a decision on the bill so those two items could be addressed and could still be approved without the contentious parts of the bill.

My presentation was to assure the committee of my lack of support for the corporate part of the bill, but we should not in our haste lose those parts of the bill that are very much required by the city and that should be dealt

with. If they cannot be dealt with in the next three minutes, we at the very least should just adjourn the meeting so that could be corrected and it could come back at another meeting to deal with those issues.

Mr Caplan: When is our next scheduled meeting of this committee?

The Chair: Next Wednesday morning, as I understand it.

Mr Caplan: We are rapidly running out of time. I would follow the suggestion of the parliamentary assistant that there are areas of this legislation which may quite easily be dealt with by this committee, but others perhaps much more contentious which may require some additional thought. I suggest that we continue to proceed and deal with it at our next regularly scheduled meeting.

Mr Shea: If it requires a motion to defer, I will.

Mr Hardeman: Mr Chair, I think what would be required would be to suggest that it is now past 12 o'clock and this meeting should adjourn until the next scheduled meeting.

Mr Shea: Chairman, before you bring down the gavel, I hope we will follow the recommendations of the parliamentary assistant. I hope Mr Gerretsen will hold himself available for the committee next Wednesday morning. There are some questions I'd like to raise with him.

I would like to thank the mayor. I have to tell you, the mayor has given me some food for thought. He has presented his position and his council's position in a very thoughtful and insightful and sensitive way. I appreciate the comments very much.

Mr Gerretsen: I wonder if I can just make one comment with respect to my sponsorship of this bill. On any request that comes to me from the municipality I represent in this provincial Legislature, which is followed by the motion from that council about a private member's bill, I feel I have the duty and obligation to bring it to this House. The House can then deal with the matters in the way it wants to, either by committee or otherwise. That was my intention in bringing it here.

I too have some concerns about some aspects of the bill. I certainly support some other aspects of that bill. I think any other way, for me not to have sponsored this bill, would have been a denial of the democratic principles that were, however some people may feel about it, enunciated by the council through the resolution of bringing this bill forward.

The Chair: The committee is adjourned.

The committee adjourned at 1324.

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Mr Dave Boushy (Sarnia PC)

Mr Toby Barrett (Norfolk PC)
Mr Dave Boushy (Sarnia PC)
Mr David Caplan (Oriole L)
Mr Ernie Hardeman (Oxford PC)
Mr Gary L. Leadston (Kitchener-Wilmot PC)
Mr Tony Martin (Sault Ste Marie ND)
Mr Tony Ruprecht (Parkdale L)
Mr Derwyn Shea (High Park-Swansea PC)
Mr Frank Sheehan (Lincoln PC)

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Wednesday 16 December 1998

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Mercredi 16 décembre 1998

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi privés

Chair: Toby Barrett
Clerk: Anne Stokes

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI PRIVÉS

Wednesday 16 December 1998

Mercredi 16 décembre 1998

The committee met at 1003 in committee room 1.

CITY OF KINGSTON ACT, 1998

Resuming consideration of Bill Pr22, An Act respecting the City of Kingston.

The Vice-Chair (Mr Dave Boushy): : I call the meeting to order. We're dealing with Pr22, An Act respecting the city of Kingston. We have a sponsor, MPP John Gerretsen, and people on behalf of the corporation of the city of Kingston. Would you like to come forward and introduce yourselves and make some comments?

Mr John Gerretsen (Kingston and The Islands): This hearing started last week, and I understood that basically the presentation has already been made by the city, but there may be some questions now that individuals may have; I don't think there was an opportunity to do that the last time. So perhaps we could hear from the mayor again. Some things have happened in the city of Kingston with respect to this, and maybe he could just refresh the members of the committee as to what this is all about.

This is Mayor Gary Bennett of the city of Kingston.

Mr Gary Bennett: Thank you very much, Mr Chair. I am here with Dianne Corcoran, the legal counsel for the city of Kingston. I do have some comments and addresses to once again provide some additional information to the committee members, and I'll ask if that could be distributed. I won't read verbatim from it, but I will highlight some of my comments to ensure that we make excellent use of the committee's time. I appreciate the opportunity to be here on a second occasion; I understand the value of time for all of us.

I'd like to first of all thank the committee for the opportunity to speak to you again about this important bill. Several months ago, the city of Kingston undertook a study entitled The Road to Recovery, and the purpose was to simply examine the long-term health of the community. Our determination was to focus on our strengths and address our core needs.

This report, which was the focus of some discussion last week, identified in the city of Kingston a significant capital backlog. What we've tried to do as a municipality is to create some strategies and make a determination of the types of tools that we believe we need to overcome this financial challenge. Kingston city council — we debated this issue last night — continues to believe this bill contains important tools that would help us deal with the fiscal challenge we confront. This bill also deals with several other matters, including changes to our board of control and issues relating to the 1998 budget approval process.

We are here once again to ask you to pass this bill, which we see as a first step in our plan. Failing that, however, we are here to ask that if you cannot pass this bill today, you please defer the bill, or those sections of the bill, and allow us to work with you to find other ways of reaching our common goal, which is quite simply getting the city of Kingston back on the road to recovery.

The document that you have before you highlights and gives an overview of each one of the issues. I can speak directly to them or provide answers to questions from the committee members. There may be other interested parties here today that may want to comment on it.

The important issue for the city of Kingston, and I'll just read the conclusion for you, Mr Chair and members of the committee: I would like to once again urge you to support this bill. We recognize that you may require more time to evaluate the implications in light of other government initiatives and priorities. If so, our message is simple: Please take the time you need, but recognize the importance of this issue to our community. Municipalities today still operate under a 19th century framework, but the challenges that we face in providing and paying for services are all too modern. It is time municipalities, in my mind, had a more modern tool kit.

The ability to create limited liability corporations, as the city of Kingston has proposed, has been in the private sector for a long time. It made possible commercial arrangements that would have been otherwise unthinkable. The barriers to municipal incorporation probably made sense when they were written so long ago, but I don't believe they do today. They are just another barrier to better administration. I think it's time that we bring innovation to government and, by extension, to our ratepayers and customers.

We look forward to working with you to consider this proposal. However, should you feel it is necessary, we are more than willing to discuss different ways of achieving these goals that are embodied in our bill. Thank you.

The Vice-Chair: Thank you very much. We only have one more person here registered to speak. Glenda Scott, would you like to come forward?

Ms Glenda Scott: Thank you, Mr Chair, for allowing me to be here. My name is Glenda Scott. I'm a private

citizen very interested in the future of Kingston, and involved in many ways. I want to make it known and very clear that I have no political agenda. Rather than take a lot of time and ramble, I'm going to read a letter to the editor that I sent in earlier this week.

"My intention is to support Mayor Gary Bennett, in his legal attempt to access private capital through public ventures and to use incorporated entities to do so. This gives our city an option to higher taxes and enormous city debt." I'm a taxpayer, and that interests me very much.

"It is my opinion that the city of Kingston private bill 22 does not pave the way to privatization; the city already has that power. It does not give the city unprecedented powers; the powers are neither unprecedented nor inconsistent with stated provincial policy," if anyone has been looking at the white paper. "It was not developed in secret; the Road to Recovery, a background paper on new directions for the city of Kingston, and explanations of the Kingston Infrastructure Group, KIG, have been available for some time," if the interest was there. "Bill Pr22 was introduced in August." This is December.

"I do not think that the city of Kingston private bill 22 is 'a disservice to democracy,'" which was stated in our paper. "It is the late hue and cry of local politicians" et al "that is a disservice to democracy and to our community."

I encourage the passage of this bill. "It is a step towards moving Kingston effectively into the 21st century."

I ask you not to allow the nit-picking and naysayers to stop the passing of this bill. Please give Kingston city hall this tool to get on with governing. Thank you very much.

The Vice-Chair: Thank you. Is there any other person who would like to address the committee? I would like to ask the parliamentary assistant for some comments.

Mr Ernie Hardeman (Oxford): This is going on with the comments that we made at the last meeting. We do have a couple of responses from ministries that were not entered into the record at the previous meeting.

One is an objection or a concern expressed by the Ministry of Transportation. They are not supportive of the ability of the municipality to transfer the ownership of the roads to a private corporation, although they do point out that it's not necessarily a given that the bill would do that. But it is their concern that it may appear to be able to do that and, if that is possible, they would have some grave concern with that.

Similarly, we have a response from the Ministry of Energy, Science and Technology, and it relates again to the corporation part of the bill. They are concerned that after the passing of Bill 35, which deals with the setting up of a corporation to deal with the energy issues of Ontario Hydro, the structure of this bill would create a different regime for the city of Kingston than it would for the rest of the province as it relates to hydro and gas being delivered by the corporation. So in that area they would object to the bill.

The other concern they have is the ability of the city, through the corporation process, to be able to set the budget of the utilities, which they think is inappropriate and should be, at the very least, reworded if the bill was going to be considered for passage.

We also have a concern expressed by the Ministry of Citizenship, Culture and Recreation, again on the issue of setting up those corporations that could in effect take over library services in the community — again, not so much to object that the libraries could be operated by some other means than what they're presently being operated by, but to suggest that the library service could in fact become a privately owned corporation to provide a service that the ministry considers to be a municipal responsibility. They deem it inappropriate and they would object to that ability in the bill, that the municipality could just turn that over to a private corporation and no longer have responsibility for that service.

Last but not least, again there is concern from the Ministry of Municipal Affairs and Housing as it relates to the process, as to whether the public could expect to be as informed about the bill as they should be, not necessarily from the public participation but from the advertising that was done in the Ontario Gazette, whether you could reasonably expect someone to understand what the changes being made to the restructuring order meant to the individuals in the community.

As it relates to the two advertisings, the first advertising did not mention some of the changes, and in the second one, although the changes were mentioned, one would have had to have the restructuring order and the bill before them to be able to compare one or the other. When it talks about removing a section of the restructuring order, is it reasonable to expect that a citizen would be able to know what it meant, removing that part of the restructuring order? We have concerns that maybe, as we read the notation, it may not have been as informative to the individual reading the Gazette as it might have been. So we suggest that, at the very least, the public should be more informed.

Those areas of the information I think relate more to the financial changes that are being requested in the bill in the budgeting process and where the savings that were mandated in the restructuring order were to be expended. It would seem reasonable to assume that those people who were expecting those savings to be sent to a certain place would not have known from that advertisement that the proposal was to change where those savings were to go.

With that, I would suggest that we would be supportive of the mayor's suggestion that much more consultation and discussion with the people in the area would be required if and when this type of venture could be achieved, not to deal necessarily with the corporate part of the bill, but the financial part, even if it is appropriate, I think requires far more local discussion so the local people understand what the changes that are being proposed in the bill are going to accomplish for them. I would support the request for a deferral from the mayor.

The Vice-Chair: Would you like to come forward, mayor and solicitors? We discussed this at length last week. What I would like to do is have brief questions and brief answers. We'll start with the Liberal caucus, then

the NDP caucus and the government caucus, if that's agreeable, for questions.

Do you have any questions either to the parliamentary assistant or to —

Mr David Caplan (Oriole): I may have some. I would like to hear some of the other comments from some of the members.

Mr Tony Martin (Sault Ste Marie): I would simply like to ask the parliamentary assistant what processes are happening out there now to restructure the way that municipalities work that are of a more comprehensive nature that perhaps this piece of business could fit into and work its way through.

Mr Hardeman: On the issue of the restructuring proposal, obviously the Municipal Act has a framework for how municipalities can propose a restructuring proposal within their own area, the exact process that the Kingston area did follow. An order was issued at the end of that consultation process in order to implement that restructuring proposal for Kingston and Frontenac county.

Upon doing their implementation process, the newly elected council for the city, along with some of the staff people, have run into what they considered some insurmountable problems in that restructuring order. This bill is requesting to change those parts of that order in order to accommodate what the system in Kingston wishes to do.

Recognizing that in all the restructuring it is a negotiated process that got them to the conclusion they came to as to how they were going to restructure their municipalities, in those orders there is give and take for how it affects some of the suburban areas and how it affects the city. They came to conclusions and compromises on those issues.

The concern the ministry has now is that in changing any of those parts of the restructuring order, it's appropriate that all those who were involved in the initial discussion that got the city to where it is today are aware of what effect these changes would have on that proposal they put together locally. This was not a top-down or ministry-forced or commission-forced restructuring. It was done at the request of the local municipalities because they came to a plan that would serve the needs of all the people of the Kingston area. But again, there was some give and take on everyone's part to make it work. We feel it's quite appropriate that all those who were part of that give and take are also part of the discussion of whether that needs to be changed.

1020

Mr Martin: Is there a vehicle out there right now that's involved in the question of how municipalities operate and deliver services? Just from thinking back to last week and having looked at the material and still feeling quite concerned at the very fundamental nature of the changes being requested here and the precedents that we'll set for other municipalities across the province, it seems to me that what's required, particularly given the change that we've seen over the last couple of years re what municipalities are now expected to do as opposed to what they were thought to be able to do by those folks who set them up in the first place — I empathize with any municipality today. I certainly am following the ongoing struggle of my own community to come to terms with the new reality that they have to deal with, the different programs that they have to deliver in areas that they never thought — I don't think some of them ever imagined that municipalities would be involved in delivery of health care and housing and a whole lot of things.

Any of us who realistically looked at what different levels of government would be expected to do thought that municipalities would look after some very basic hard services. Now we're into a whole other realm that is very expensive. It's very hard to predict from one year to the next what the cost is going to be. I empathize with the effort that communities like Kingston and my own have to make to try and make sense of all of this so they can be the responsible body they are elected to be.

My concern is, is this the way to go, each community coming forward with their own proposal and asking for a legislative mandate to do that, or is this government involved in another exercise to try and have some uniform approaches supported by legislation across the province so that municipalities can deal with the challenge that's in front of them? Is there anything that the government is doing?

I'm still concerned that this is not the proper vehicle: a private bill coming forward that gets the limited debate that we get here in the two hours we have on a Wednesday morning. It seems to me that this is a more fundamental discussion that needs to be happening at another place and would involve more people, because eventually they will have to wear whatever is decided here as precedent, and that frankly concerns me; it concerns me a lot.

I think I heard the mayor say: "Is there another vehicle? Is there another avenue?" Is there another route that's more appropriate that would be more helpful not only to Kingston but to the larger province?

Mr Hardeman: In answer to that, first of all, all municipalities are governed by the provisions of the Municipal Act. It's quite obvious from the application for this bill that what is being proposed in this bill is not something that would be allowed for all municipalities in the present Municipal Act.

We've had some consultations and we are presently still in discussions on changing and coming forward with a new Municipal Act that will help do a better job of directing municipalities as to how best to provide services to their people. One of the discussion papers that was circulated for municipal consultation made some reference to finding a way of providing municipal services, joint ventures with the private sector, and getting some comments back from the municipalities on how best that could be done.

The draft Municipal Act that is presently in circulation does not envision this part of the process, to set up private corporations in order to do that. Much of the discussion that we've had over the last number of months is from municipalities that do want us to look at finding some other avenue to be able to do that, recognizing the

concerns that have been expressed in this bill and still looking for some method to be able to get the public and the private sectors jointly involved in some of the municipal services to provide them in a cost-effective and efficient manner.

As to whether the government as a whole is looking at implementing something like this, I can't say because at the present time any discussion paper we have out there is not to look at having municipalities setting up private corporations to deliver their services. But we are consulting with all the stakeholders to see whether there is a way of incorporating the public-private partnerships in a more effective way than is presently being done.

We do think at the present time that many of the things that are being requested can be done under the present Municipal Act, where the ownership may still be maintained by the municipality as opposed to setting up a completely independent corporation to do that.

The Vice-Chair: Liberal caucus, do you have any questions to the applicant or the parliamentary assistant?

Mr Tony Ruprecht (Parkdale): Yes, I have a question to the parliamentary assistant. I'm not surprised that as a result of downloading or restructuring, the municipalities are now looking for a new way to deliver services. But I am wondering whether in this case the city of Kingston is the very first that has come forward with the recommendation on public-private partnerships, or do we have other municipalities that have made recommendations to you or the ministry previously? In short, is this the only way that this recommendation has come forward, through this committee, or have you in the meantime, through your ministry, developed certain recommendations and plans of action that would help us in this procedure? Is this something totally new to you? Is this a first-time issue?

Mr Hardeman: I'm not sure one could say that anyone suggesting to set up a private corporation would be something totally new to anyone. Obviously the private corporations act is there and it's being used. In fact, many of us around the table have been involved in the private corporations act setting up a corporation in order to do business in Ontario. I don't think it's new that municipalities would be looking at that as an alternative of trying to provide services.

The point that we want to make is that the present Municipal Act does allow joint venturing with the public-private partnerships, providing the services remain in the ownership of the municipality. This is an innovative way, or at least a different way, of looking at how they can bring in private sector capital into municipal services, whether that is appropriate or whether it's inappropriate, but that is in my opinion the reason for this coming forward.

Have other municipalities ever proposed it? I'm not aware that there has been a bill before this committee to provide that opportunity to a municipality, but yes, municipalities have discussed it and talked about it many times before as to whether this was an appropriate way to deal with municipal functions.

Mr Ruprecht: I'm trying to get a sneak preview of the ministry policy as it is being developed or as you are going to be recommending it somehow. I am wondering, are you in a position today to tell us what some of the recommendations are that the ministry or minister will be making?

Mr Hardeman: No. I guess I kind of thought this morning would be appropriate to deal with the bill that's before us as opposed to discussing sneak previews of other legislation.

Mr Gerretsen: Make policy, Ernie.

Mr Caplan: To the parliamentary assistant, I understand that, for example, with research in universities the government has set up what they call these challenge funds, which are part private and also public monies to promote research, so a new way of doing business there. Is what's being proposed for the city of Kingston analogous to that kind of situation, where a function which was previously all within the public scope is now a shared type of arrangement? Is that how you see this working?

1030

Mr Hardeman: No, I wouldn't necessarily agree with that. From our ministry's point of view at this point in time, and dealing directly with this bill, we see that the ability of setting up a joint venture with the private sector, providing we have the municipal ownership and control, is presently available. We do not see that it's appropriate to completely segregate that service from the municipal portfolio through this structure. That's not to say that our discussions on the new proposed Municipal Act would not include some of the discussions of how this can be done and still have that municipal control and accountability to the municipal taxpayers and still be able to provide the service in the most cost-effective manner.

I do have here, if it's any help to the committee, the part of the present Municipal Act that deals with allowing this joint venturing: "The council of a municipality may enter into agreements for the provision of municipal capital facilities by any person. Agreements under subsection 2 may allow for the lease, operation or maintenance of facilities by any person, and despite any provision of this act or any other act permitting a municipality to sell or otherwise dispose of lands or buildings when they are no longer required for the purpose of a municipality, for the sale or other disposition of municipal lands or buildings that are still required for the purposes of the act."

I think the ability to work together with the private sector is in the present Municipal Act. We're just not convinced at this point in time that this bill is the right way to address the situation.

Mr Caplan: Mr Chair, I have a few questions for the deputants as well. I understand from your comments that this is really a very new year to your transition. When you originally requested the province to help you with your transition, you requested some money to fund some of the transition costs. What was the response from the province? How helpful were they to you? Can you give me some idea of how those discussions went?

Mr Bennett: Initially when the municipalities within the greater Kingston area began to talk about the issue of restructuring themselves it was done in the context, prior to the introduction of Bill 26, of the Savings and Restructuring Act. I guess in many ways we were there in the beginning, again in terms of wanting to reform the way we governed our community. Much of the discussions and the negotiations took place outside the context of Bill 26.

Certainly the discussions we had with the Ministry of Municipal Affairs were highly supportive of our initiative prior to the introduction of Bill 26 in terms of trying to reform the way we governed the greater Kingston area, and I think in many ways we were applauded for it. We were certainly assured that there would be financial assistance to assist with the transitional costs. At the end of the day, the province did provide funds to the city of Kingston that covered 51% of the transitional costs. Being a little wiser now, perhaps I might have negotiated an agreement with the province if they would have agreed to fund 100% of them.

In fairness, I think the province was fair to the municipality in the context of how they provided funding to all the municipalities in Ontario. I can't be critical of the Ministry of Municipal Affairs for not providing 100% of the funding. That funding came from a pool that was established by another ministry. It seems to me they were fair in terms of trying to accommodate our costs, but there never was an agreement that they would pay 100% of them. I'm not sure if they would have ever been agreeable to that.

As it is, the city of Kingston must finance 49% of the costs of the restructuring. We couldn't do that in year one. It was quite simply financially beyond the means of our community. It probably amounts to something in the order of $15 million in total. So we're going to amortize those costs over a period of time and we do have accounting and legal opinions that we can do that. We've sought assistance to ensure that we can in fact spread those costs over more than one year. That's an enormous front-end cost for any municipality to absorb.

The savings that we've achieved are significant. Once again, one of the issues the committee is dealing with is that there are no net savings in the 1998 budget as the money is going to offset some revenue shortfalls as a result of the provincial services realignment initiative, as well as the fact that we are trying to absorb in 1998 a significant component of the restructuring costs that were not covered by the province.

Mr Caplan: By provincial services realignment, you mean the municipal downloading that's taking place.

Mr Bennett: "Download" seems to be a shorter way of describing that provincial initiative.

Mr Caplan: The city of Kingston is short about how much, do you figure? You say that's eaten up all the savings that you anticipated from any amalgamation, from any restructuring that's taken place.

Mr Bennett: There is a summary of issues that has quite simply absorbed the net savings. They have been absorbed as a result of the fact that today there is a different fiscal relationship between the city of Kingston and the province of Ontario than there was in 1996. In addition to that fact, we've had to absorb the restructuring costs. As well, our community also had to deal with the storm of the century, the ice storm. There were significant costs, but once again the province covered them, as well as the federal government. But there were additional costs that were added into our budget.

There was a variety of unusual factors that were present in 1998. Some of those factors will continue to be present in 1999. There's no doubt that in 1998 we did achieve savings that exceeded the requirement under the restructuring order, but those savings were quite simply overwhelmed by all the other factors that changed.

Once again, had we been a little wiser in 1996 and known that the fiscal relationship that existed in 1996 between our community and the province was going to change fundamentally, we probably would have incorporated some latitude or some flexibility in the agreement that would have spoken to this. You never have a crystal ball that is as accurate as you would like it to be. In this particular case, that's the circumstance. The world has changed significantly since 1996 for municipalities and we're trying to respond to those changes by a variety of requests that are in this bill before you.

Mr Caplan: I don't think anyone could have anticipated the results of the downloading exercise and the effect that's had on municipalities. It was purported to have one kind of an effect and in fact that hasn't been true. It's had a significant negative impact on the municipal side. The province has offloaded its costs.

I'm curious as well that there were, as I understand it, municipal support grants that used to be provided. That was changed. It is now a one-time fund that will run out in 1998 and 1999. How much did Kingston receive from that one-time transitional funding? You're now going to have to be responsible for that in 1999 and subsequent years, as I understand.

Mr Bennett: That amount of money that was given to municipalities has been on a sliding scale and has now been eliminated as such. I don't want to get into a debate about the numbers because there's no doubt that when we do the math and the province does the math, sometimes the numbers don't add up. I don't know if that's a consequence of the complexities of the fiscal relationships that have existed between the province and its municipalities, but there's no doubt that the city of Kingston believes it is receiving — in fact it knows that today it is receiving — less money from the province in the context of the responsibilities that it has to its citizens. I think that's a fair statement.

Mr Caplan: What have you projected the impact to be on municipal taxpayers as a result of the withdrawal of provincial support for the city of Kingston?

Mr Bennett: I don't want to sit here and point fingers and blame provinces or municipalities for their ability to manage their financial affairs, but there's no doubt that in the city of Kingston there has been additional pressure on the property tax base as a result of the download, as

you've referred to it. There's no question it has added additional costs to our municipality. As a result, more property tax money goes into providing services to the residents in our community than did prior to the provincial services realignment.

Mr Caplan: Hence, you were here last week and this week asking for the help of this committee and of the Legislature to deal with many of the extraordinary pressures that you find yourself in. Correct?

Mr Bennett: Surprisingly, this municipality is not here to ask for money; we're here to ask for the flexibility and the tools to, quite simply, manage our affairs in a very changing world.

The Vice-Chair: We'll move to the government caucus for questions. Anyone?

Mr Derwyn Shea (High Park-Swansea): It wouldn't have been an answer that Mr Caplan would want to hear, but I think it was a very forthright response, Mr Mayor, and I appreciate that. Obviously, we are all of us sensitive to the restructuring that governments are going through right now and I'm heartened to hear my Liberal colleagues expressing sensitivity to what they call the downloading. I hope they'll join us equally in expressing outrage on the download from the federal government: $2.4 billion just in health care alone. But let me pass on to the issues that are before us right now.

A question first of all to Mr Gerretsen. What parts of this bill particularly impress you and garner your support?

1040

Mr Gerretsen: Thank you very much. First of all, I would like to reiterate something I said near the end of the meeting last week. When I get a request from a municipality through its mayor that it has applied for a private member's bill, I feel it's my democratic right and responsibility to bring this matter forward.

Mr Shea: I think we all share that.

Mr Gerretsen: There was some suggestion made about how I could sponsor this bill when I was not totally in support of it. I feel it's the only way to get it before the Legislature or one of its legislative committees, and I respect that right now.

I think there are three aspects to this bill. There are the powers of the council over the board of control issue. Other than one letter that may have been received from a gentleman who was on council at the time in Kingston township, a council before the restructuring took place, there seems to be widespread support for the notion that council should be able to override board of control decisions by a simple majority rather than a two thirds majority. I certainly support that.

With respect to the corporate aspect, I think that's the area where most of the letters have been received, not only by the committee but certainly by myself. It basically revolves around two issues: (1) that the citizens of Kingston know exactly what is happening; and (2) should those powers be given.

Over the last week, I've had an opportunity to go through the various council minutes, the various decisions that have been made by council as we go along. First of all, I don't view my role as being some sort of a superlord to overlook what a council is doing. They're elected people and if they feel they want to come forward with something, then they take the responsibility and the flak that comes along with it, that happens to come that way.

Having looked at all the various resolutions, though, I concur that there has been debate about the general tenets of the bill, but there is no resolution that I've found anywhere — and I must say I didn't receive all the various resolutions that council dealt with — that dealt specifically with respect to the bill that's in front of you. There was a lot of general discussion about the general policy document, the general direction that the city should take. There was even some discussion in some of the resolutions about the fact that a private member's bill or a private bill would be required in order to move those initiatives along. I have not been able to detect any kind of motion that specifically deals with the bill in front of you as it relates to corporate power in specific terminology. If I'm wrong, then I'd like the mayor to correct me on that.

I think there is some real concern, particularly by the people who work for the city of Kingston. As has already been stated, we live in a changing world and there is a real fear on behalf of public servants and the general public out there about this whole mode of privatization. I think that fear is well-founded. When employees within a corporation, when people who rely on the services of a corporation all of a sudden hear that under this new act, and with the new powers, a city in effect requests the power — whether it will exercise it or not is something else again — to privatize whole areas, there is general concern about that.

As has already been stated, I hope that section of the bill can be referred back to the city to have further discussion and further public input from the general public, from those people who are interested in it, specifically dealing with the powers that are requested in the bill as they relate to corporate powers. There may have been general discussions about that before, no doubt — council resolutions seem to clearly indicate that — but certainly not the specifics of the bill. So I'm not supportive of the corporate powers that are set out in the bill at this time.

With respect to the third aspect, and that deals with the financial issues that have been raised, I think the mayor has already said it. Since the amalgamation agreement, the restructuring agreement, was entered into between the three municipalities and the province of Ontario, a lot of other changes have subsequently been brought forward; call it downloading, resurfacing, rearrangements, however you want to call it. This is another municipality — and I don't want to get involved in the politics of this — that has felt the real effects of the changes that have taken place and obviously feels that now they're going to be short of money as a result of that.

I can see that some of the people who were involved in negotiating that earlier restructuring agreement, such as the former reeve of Kingston township and a former councillor of Kingston township, have some concerns. These people are saying, "Why should an agreement be changed

within a year after it was put into effect?" because the new city of Kingston started on January 1 of this year.

On the other hand, the city of Kingston has a real problem. Right now they are short $15 million. They have to be able to deal with that. Therefore, I do support those changes. I don't think it's the city's fault in that case at all, quite frankly. I personally happen to believe that it's as a result of the extra services that are now going to be paid for at the local level, whether we want to call it downloading or not. It has to be dealt with. They are $15 million short and either the taxpayer next year has to deal with it or it has to be done over a certain period of time by way of debenturing etc.

Basically, I support those two aspects of the bill but not the corporate aspect and I'd be more than pleased to answer any other questions that you may have of me in that regard.

Mr Shea: Your response obviously generated a number of other questions but there's only one that I want to focus on because it strikes me as a very serious allegation that you've made as you've gone through the records. You have your own experience in municipal government, so obviously you know how to raid the records. You've indicated, at least you've given me the impression in your response, that council has either avoided or obscured or misled the community in terms of the key issues that are presented.

I've heard in evidence today and in the last meeting, and I think Glenda Scott said it well, that this has been on the record at least since August, if not before. Can you respond to my concern that from your comments you have left me with that impression that council has not managed this in the public forum adequately? And I'd like the mayor to respond, in fairness.

Mr Gerretsen: Let me just read to you one portion of a resolution that was passed on July 16 by council. It states: "That a request for special legislation be submitted to the province of Ontario on an urgent basis to correct elements of the minister's order which created the new city of Kingston, some which cannot be implemented due to changes since the creation of the restructuring order. The request should also include legislative authority to clarify the city's authority to carry out all the elements of its new approach," — which deals with this privatization matter — "particularly the corporate integration of the Kingston Infrastructure Group and payment of interest and dividends to the city."

There are other resolutions similar to that. You, sir, can draw your own conclusions. I certainly would not accuse the city of Kingston and its council of misleading anyone. I am sure the mayor sitting here and council, in bringing this matter forward, felt that it had enough adequate public exposure. You can draw your own conclusions.

I can also completely understand some people in the community saying, "That is not as direct as you can be, by saying you want to give the city full corporate powers as laid out in the special act that's before you right now." It's not a question of misleading; it is a question of people having different interpretations as to what was passed. If there is any concern about that, being a true believer in the democratic system and being one of the reasons I got involved in this process over 25 years ago, I believe in an open and transparent approach. If there is a widespread concern in my municipality that that has not happened in a particular case, then I think it is best for council to go back and look at it, but I don't want to put myself in that position. That is basically up to the mayor and council to decide.

I certainly would never accuse them of openly trying to mislead anyone because that's not the way we operate local government, and never have, in the Kingston area, regardless of who has led that process.

Mr Shea: Mr Gerretsen, when did you read Road to Recovery?

Mr Gerretsen: I received a copy of it some time when it came out in late summer.

Mr Shea: Would the issues that are before the committee now and the request being put forward by the mayor and the council have been appropriately reflected in that document?

Mr Gerretsen: What the mayor has put before —

Mr Shea: Yes, would that have been part of —

Mr Gerretsen: I think his presentation has dealt with the Road to Recovery. That's correct.

Mr Shea: Road to Recovery would have contained the genesis, and more than the genesis but in fact the blueprint that is outlined in the documentation today, the proposal from the mayor.

Mr Gerretsen: That's right, but not the specifics of what's requested in the —

Mr Shea: Road to Recovery did not get into specific details, in your opinion.

Mr Gerretsen: It's got a few specific details as to how things ought to be done, but it didn't specifically deal with the wording as contained in the city of Kingston bill.

1050

Mr Shea: Thank you. Can I go to the mayor now for the response.

Mr Bennett: It's important to realize that the city of Kingston did, in my opinion, involve the community in consultation. All the discussions were held in public. There is a chronology of events which I believe was circulated to the members which does indicate that on at least three, if not four, different occasions the council debated the issue and passed very extensive motions that went into an enormous amount of detail about what we were trying to take forward.

In fact, I took the unprecedented move, which is something I've never done in my life, and called a press conference to announce the formulation of the Road to Recovery document. It was attended by every member of the media in our community. It did not in some ways focus on the issues that are before us today. It did speak to the issue that the city of Kingston had some fiscal difficulties and the council was trying to put together a long-term fiscal strategy to attempt to deal with this. We answered all questions that were posed to us, certainly at that press conference. As well, we held two public consultation

sessions with it. We posted much of this information on the Internet and it's there for the world to look at, in my opinion.

Could we have done a better job in terms of communicating the complexities or the potential of what we were proposing? Perhaps. I guess any of us can stand accused of perhaps not doing as good a job as we could have done in terms of public consultation. I think the potential to be accused of that is always there in government.

It's important to realize that within the body of all these motions we talk about creating a comprehensive, far-reaching strategy, and the important thing to recognize is that in the motions we talk about the fact that the public of the city will be consulted on components of the strategy. What we're trying to do today through this bill and through this entire exercise is nothing more than access a tool that gives us the flexibility to quite simply administer or provide services to our community in a way that in many ways is innovative, far-reaching and is a significant departure from the way services have traditionally been provided.

I think the parliamentary assistant has indicated that the Municipal Act does provide some flexibility to do some things. It also creates some barriers. I think it's fair to recognize too that you don't have the extent of flexibility that the city is seeking. I'm sure the parliamentary assistant will concur that the municipalities of Ontario are extremely creative and innovative in terms of trying to take the legislative framework we're asked to work in and find ways to make it work.

What we're saying is, we believe the Municipal Act can work better for municipalities. This is one way we believe it can work better. But in terms of the issue of public consultation, I believe we endeavoured to communicate to the best of our ability what we were attempting to do.

In terms of the corporation of the city of Kingston and its ability in terms of external communications and should we be putting more money into an external communications function, I think the difficulty in that is that then you're constantly accused by the media of trying to spin things or produce your own propaganda. We've tried to be transparent about this. We've tried to be honest about this.

One issue that the member from Kingston raised was the issue of privatization. I've said it before at this committee, I've said it publicly as many times as I can remember, that this is not an attempt to privatize the services in the city of Kingston. Without this tool, privatization in my mind is very much a viable option the city needs to look at. I'm prepared to look at privatization in the absence of this tool. With access to this tool, privatization in my mind is not necessary and is not something the city of Kingston needs to consider, but to be able to create public corporations, to be able to encourage private equity participation in the activities and the services of our community is something we think we can better achieve through the creation of stand-alone public corporations with access to share capital.

In this particular case, what we're trying to say is, we believe this provides a degree of flexibility that has ministerial concern. In fact, I'm surprised at the degree of interministerial concern. There is probably merit in some of that concern and I guess we need to have a debate that goes far beyond this room in terms of those consequences.

Mr Shea: Could I just finish off that part, because I think, Mayor, you've cut right to the chase, and I appreciate that response. I'm reassured that there has been significant public opportunity to deal with this issue, particularly through Road to Recovery. It has not just been sprung on your public in the last month or two.

You wanted a very quick response, Chairman, to this. My comment would be it is an imaginative approach that is worthy of expeditious evaluation. Considering the parliamentary assistant's caution, I think there's a need to reflect upon this middle ground that Kingston seems to have discovered. It's worthy of some very quick evaluation. I think we should defer that part of it for further consultation but not for a lengthy period of time.

We're going to have an interesting debate that may go on here, and you're right, Mr Mayor, it may go on into a broader forum, whether you go to the point of privatization, which you could do right now as of right, or to the other extreme where you say, "The state is responsible for providing all services and that's the end of that discussion." You seem to have come up with another model that is worthy of some consideration. Frankly, for this one member, I want to compliment you and your council for having had the imagination to go in that direction. It is at least leading us into an interesting area of evaluation. So I, for one, appreciate that. My questions of your sponsor were simply to ensure that there has indeed been an opportunity to consider the public in the equation, and you have. I'm reassured by that.

With that, Mr Chairman, I'll turn it over to other members.

The Vice-Chair: Could we have just one more final brief question from the government side. Otherwise we'll be here all day.

Mr Gary L. Leadston (Kitchener-Wilmot): I have a number of questions, but I'll just ask one that I think is rather important.

Is there a motion on the table to defer this, and does that set up a sense of false expectation to deputations that down the road — there's been no direction in terms of altering any section of the bill or any direction from any of the parties in terms of what they're comfortable with or what they're not comfortable with. We've heard from the deputation. My question is, is our purpose here this morning to continue dialogue until noon and adjourn and then have it come back at a future date or do we make a determination this morning that this bill is not acceptable or are we going to defer it? What is our goal?

The Vice-Chair: I understand the parliamentary assistant had that in mind. He's going to make a motion to defer it. Does that answer your question?

Mr Leadston: Until when?

Mr Hardeman: The only reason I would propose to make a motion to defer is at the request of the mayor, who suggests that if the committee was not prepared to deal with and pass the bill because of some of your concerns, the city of Kingston would be better served by having it deferred until some later date when they could request with the clerk to have it put on the agenda for further discussion by this committee. I guess that's really the point to make.

I would not be prepared to ask for a deferral to any specific date. I would be prepared to vote one way or the other on the bill, but I think in recognition of the mayor's request that he would be prepared to look further at the options and have further discussions with their community as to some way to deal with the bill that would meet the objectives of the city and also the objectives and the concerns expressed by the different ministries, I would suggest that we give him that opportunity to go back and have further discussion in their community. If they can come up with an answer, they could come back with the bill reconfigured to deal with the concerns, but if they could not come to a consensus, they may decide not to proceed with the bill. That would be their choice.

Mr Leadston: Or the bill could be withdrawn, taken back, rewritten, incorporating the comments and suggestions.

Mr Hardeman: To my understanding, the question is that when the committee has the bill before it, whether it then still is the opportunity or the ability of the applicant partway through the hearing to just say, "I withdraw," it would seem more appropriate to use the approach that we would defer the decision and let them take the bill — recognizing it would not come back on the agenda unless they requested it to be back on the agenda.

Mr Gerretsen: I would just say that I think there seems to be agreement with respect to the corporate powers, but is there any reason why this committee can't deal with sections 1 to 4 and section 8 which specifically deal with the powers of the board of control and the ability of the city to deal with the financial problems that it currently has as a result of restructuring? It has to deal with a $15-million problem. How else is it going to deal with that?

Mr Hardeman: Again, I can't address how the committee would vote, but if one were to divide the sections up as Mr Gerretsen suggests, I would be voting against the other sections also. I would suggest, if my view is the view of the majority of committee members, that a deferral of the total bill may be more appropriate than going through and voting some sections down, which of course would then disappear and no longer provide the city of Kingston further debate on those issues, and if that included all the bill then it would be identical to voting the bill completely out of existence.

1100

The Vice-Chair: I want to go back to the NDP caucus.

Mr Martin: Rather than leave the city of Kingston twisting in the wind with a deferred bill here and given the very strong concern you've raised, Parliamentary Assistant, about all of this — my view is that we're here discussing this today because the city of Kingston, like every other city across this province, is having a heck of a time sorting out the mess that's been put on their table re the whole process of downloading. It's just been a disaster from the get-go. You have municipalities now desperately trying to find ways to deal with this mess and that's what we're dealing with here.

I first of all disagree with the process. I don't think this is the place to be discussing it. I think you're right, Parliamentary Assistant, that there's further discussion needed here, because this is fundamentally different legislation than what's in place now under the Municipal Act and it gives municipalities powers that other municipalities then will obviously want. I think the question is, do we want to set that kind of precedent here? Do we want to deal with this very difficult circumstance in this very haphazard way?

The other thing is, and I want it on the record and people here to know, that I am totally opposed to dealing with the mess the provincial government has created in this fashion, heading down a road that will see public money used to buy private sector services to deliver programs that I think the public, and rightfully so, expected the government they elected would be delivering, and be responsible and accountable, ultimately, for the quality of that delivery and the expenditure of the money on that delivery.

I'm totally opposed to the direction that is indicated by way of this bill as well. I will be in support of any move here this morning to vote on this bill and I will be opposing it for those reasons, including the comments you've put on the table this morning, Parliamentary Assistant, raising the very sincere and I think important concerns that you have.

The Vice-Chair: Mayor Bennett?

Mr Bennett: Just a couple of comments. First of all, I'm comforted by the words of some of the committee members that this issue of incorporation needs a wider airing, but it's an airing the government recognizes and it's willing to work in partnership with the city of Kingston and other municipalities in Ontario to improve the way municipalities govern their communities. If that requires a wider debate and a more extensive consideration of those sections of the bill before you, which are 5, 6 and 7, then I would certainly support withdrawing it or deferring the decision on it.

The other two issues are the board of control and the budget. I'll just take two more minutes of the committee's time and then you can make your decisions as such.

The issue of the board of control and its ability to have a two thirds effective veto over decisions of council is something that was discussed extensively through the restructuring. The only sort of evidence I can provide to the committee is that there was extensive coverage in our media on the issue of what a board of control is. For our community, I think there was a lot of misunderstanding of just what a board of control is. It was something new to our community.

This particular article that appeared in the Whig-Standard one month before the election states: "Was the board of control supposed to be as powerful as it appears to be? The answer is no." It goes on to say: "Area politicians proposed a board that could be overruled by a majority council vote, as in the case of London, Ontario. Provincial and local politicians are now considering ways to weaken the board's power."

I think it's a question of what your understanding was of what we negotiated at the time in 1996. It was a highly complex agreement that we debated and came to an agreement on. I think the issue for my council is that we want a council of equals. We want a council that operates a board of control similar to the only other one in existence, which is in London, Ontario. We were as surprised as anyone to find that the only board of control that was in existence at the time, which is the board of control in London, Ontario, operates contrary to the provisions of the Municipal Act.

I guess it's a question of whose interpretation of the agreement. The only opposition to the city of Kingston's request for amendments to the board of control that I'm aware of, that my office has received any correspondence or interest in, is in a letter I was shown that was sent to Mr Gerretsen's office opposing this. I've received no phone calls in the community and I've received no letters opposing that the board of control powers be quite simply changed and made in conformity with what we believe we negotiated. If on the weight of a single letter the committee is going to suggest that it doesn't want to support a virtually unanimous motion — I believe there were one or two members opposed — on that issue, I guess I'd like to know why.

The other issue is the budget. The only evidence, once again, I can present to the committee is a letter signed by the commissioner of finance, who was the former treasurer of Kingston township. In the letter he makes the statement that "the city of Kingston has met its legislative requirement under all the budgeting provisions of the restructuring order. The council is confident we've met the restructuring order's requirements legislatively. Our legal counsel agrees we've met them in terms of statutory responsibilities," and the commissioner of finance of the city of Kingston, in this letter to this committee, says that the city of Kingston has met its legislative requirement.

Do we need to publish this letter? Do we need to go back to the community and explain to the community that fact? That may be the case. I don't think there's any other evidence I can provide this committee that can convince them that the city of Kingston has complied with not only the spirit of the agreement but, in this particular instance, we have complied with it to the letter, to the best of our ability, given the changing financial circumstances.

I agree these are three independent issues. Should they have been presented as three separate, independent bills? I guess life continues to be a learning process for me, and in the future I may very well ensure that there's only one issue of any substance dealt with in any future private bills that the city of Kingston will present to this committee and government in future years.

I appreciate the opportunity of being here. I've learned much in the last six months.

Mr Gerretsen: We've all learned a lot, Mayor Bennett.

The Vice-Chair: Mr Mayor, are you in favour of deferring this bill totally or is this your final —

Mr Bennett: The difficulty for me is that I can't prejudge the final decision of the committee. But if the committee is not prepared to support any of the provisions in there, I would ask that you defer it so we have a further opportunity to satisfy the government and the committee that it is appropriate to support all the sections of this bill.

I understand the contention around the issues of incorporation. There's no question the issues go far beyond this room. But I don't believe the issue of the board of control or the issue of the budget extends to the same degree beyond this room. I think the city of Kingston has worked hard to make the restructuring order work.

It's important to recognize that I would hope the authors and the people who helped negotiate that agreement don't believe that that agreement has some kind of divine constitutional status. It's not a constitutional straitjacket for our community. It represents an agreement between parties at the time that a partnership was created between the city of Kingston and its member municipalities. In future years, future councils are going to look at the restructuring order and view it, as I do, as a living document that must change and reflect, in my mind, the will of the community and its council.

To suggest that it is a constitutional straitjacket is unfair. It's a question of who governs the city of Kingston: the restructuring order or the council elected by the community. That's the issue in my mind. There are many components within that restructuring order that I will always honour and support while I'm the mayor of the city of Kingston, but once I've left office I think the will of the community is expressed in its local government and it has the authority and the ability to do what it wants with that restructuring order. I can only take responsibility for it while I'm there and I'm trying to do it in a way which reflects compromise and community will.

The Vice-Chair: Does the Liberal caucus have any more questions?

Mr Caplan: No.

Mr Bill Vankoughnet (Frontenac-Addington): Just one small point. I'm very concerned about the question to defer this. I would rather see the committee decide one way or the other whether this bill should go forward. It's already been deferred from last week. There's no time frame here as to when it might come back again.

I think there are a lot of unanswered questions. The questions that I get, representing Kingston west and a major portion of Kingston east, are that there should be more consultation. We can argue at length whether or not there has been enough, but certainly what I'm getting from constituents is that they have many more questions.

As a representative of a major portion of the city of Kingston I have not been consulted, so I can appreciate the many other people in the community who feel they have not been adequately consulted. I would certainly be on record as wanting to vote against this particular bill and not defer it.

1110

Mr Hardeman: A couple of comments: Earlier there was some question as to whether corporations had ever been created by municipalities, and I neglected to mention that there are a number of instances where by legislation municipalities create private corporations such as what is being directed in Bill 35 through the delivery of electricity. There are instances. The housing regime in local government is done through the private Corporations Act. There is the ability in the Municipal Act for communities to set up community economic development corporations. Again, they set up the corporation owning all the shares and then they provide it in a businesslike manner.

There is no instance I'm aware of where it can be done through the present Municipal Act for any municipal services, but there are a number of instances where it happens through special legislation that applies to all municipalities. I just wanted to clear that up.

The other thing is in response to Mr Martin's comments about how the reason for this bill and the parts of this bill coming forward are related to the realignment of provincial-municipal services. I would point out that there are no parts of the bill that deal with that. They deal with the Kingston restructuring order, they deal with the structuring of local government and they deal with how a municipality, the city of Kingston, can deliver services in a different manner.

The services that are being discussed, incidentally, are not those services that relate to the realignment of services. The ones about which concern has been expressed have always been under the authority of local government, up to and including the delivery of public health. It was mentioned by Mr Martin that this was somehow a big part of this bill. I can assure you that the delivery of local public health has been done very ably by local government for many years. Though the funding structure has changed somewhat, the delivery model of that has not changed in the last year or two in order to deal with the provincial realignment.

It's important that the committee stay focused on what the bill is intended to do and what purpose the people of Kingston are here for, as opposed to the overall, general picture we've had some time discussing that does not necessarily relate to this bill but to a different regime altogether. I ask the committee to consider that.

Recognizing the comments made by some of the members, Mr Chair, I would move a deferral of the whole bill, and ask that you open the debate for that, to such time as the city wishes to bring it back. I would also point out that with such a deferral the end result, the only difference between a deferral and a denial, is that they have the ability to bring the same bill back at a future time, as opposed to having to do the same thing all over again, to rewrite a bill.

From the committee discussion, all those in the room would be aware that the bill in its present form would, at least in my opinion, from what I've heard, not be likely to be passed by this committee. So I suggest I make the deferral to facilitate their ability to look at other options. I put that motion on the floor.

The Vice-Chair: We have a motion to defer and I think we could again go around: the Liberal caucus, the NDP caucus and final comments from the government caucus. Then we'll have a vote on that.

Mr Caplan: It's a little bit — how should I say? — unfair to try to piece off the different portions of this bill and say that it has to be treated as a whole and that it is solely a matter of what's in this bill. It is within the context of what's happening within the city of Kingston. It is the will of the city of Kingston and the belief, as I understand what the mayor has said, that they understood when they were restructuring that their democratic structure was going to be of a certain form. They have subsequently discovered that it is different than what their belief was.

I don't for the life of me understand why this committee can't deal with that today, especially if that is the unanimous or near-unanimous decision of the city of Kingston. That is one aspect that I think we could appropriately deal with at this committee today.

In regard to the financial powers, obviously when the restructuring was taking place it happened in the context of the time that the city of Kingston said to the surrounding townships, and there were some discussions taking place, "We feel this is a good idea, that it will benefit the ratepayers, it will benefit the citizens of our communities," in the context of 1996.

Here it is 1998, and the context of the time is entirely different. There are a number of factors. I know the city of Kingston could not have foreseen the tremendous weather condition that occurred last year that has had significant impact on the city and still does, and perhaps the full extent of it. They could not have foreseen the exercise of downloading. I must admit I've heard one of the government members, Mr Shea, and I've heard others whine about this federal government business which they knew well in advance about. I hear them whine like the previous government was whining and yet the city of Kingston was hit, as other municipalities were, really out of the blue on this whole exercise. They could not foresee that happening to them. It has eaten up their savings. It has put a tremendous strain on their —

Mr Vankoughnet: Mr Chair, we have a motion on the floor. Could we not deal with that rather than this rambling?

Mr Caplan: Mr Chair, it has given us a process and we're going to talk about the process.

Mr Leadston: We're not talking about this.

Mr Caplan: OK, we're not talking about the process but we're going to deal with the process and talk until everything has been said.

I think it's quite important for the city of Kingston to be able to deal with the matters that they find themselves in financially, and to be able to debenture their costs is something this committee could deal with today. There's no reason that that subject area of the bill, sections 3 and 4, could not appropriately be dealt with today and supported. I haven't heard any good rationale of why that could not be, as with the board of control.

As for sections 5, 6 and 7, the mayor has indicated, as have others on this committee, that there needs to be a broader discussion. I also happen to believe that it is not appropriate for this committee to be setting what would be new policy. We had this discussion last week on a different bill, that a precedent of that nature is not appropriate for a private bill. It should come out of direct government policy, whether or not that is the will of the province of Ontario through its various engines. That was my position on a different bill. It remains my position on this kind of bill as well.

I believe that sections 5, 6 and 7 are inappropriate for this committee to be deciding on. A deferral, while that may delay things, quite rightly should be discussed at the cabinet table, with a decision whether it's an appropriate avenue to follow. It sounds to me as though the city of Kingston has tried to come up with an innovative solution to some of the situations and some of the problems that they've been placed in. Unfortunately, many of them are not of their making and they're having to grapple, as all municipalities and councils are having to grapple, with the actions of different tiers of government.

I certainly urge this committee to support today sections 1, 2, 3, 4 and 8 of this bill and not deal with 5, 6 and 7.

Mr Leadston: On a point of order, Mr Chairman: We're not debating sections of the bill. I understand, and I stand to be corrected, very clearly that the parliamentary assistant, Mr Hardeman, has put on the table a motion to defer.

The Vice-Chair: He is, in other words, speaking against the motion. Finished?

Mr Caplan: Yes.

The Vice-Chair: OK. We'll move to the NDP caucus.

Mr Martin: I'll be voting against the motion to defer too for a couple of reasons. One, I don't think it's fair to leave the city of Kingston twisting in the wind for God knows how long, thinking they can come back here and maybe push this through at another time.

I was a little disappointed this morning that the dividing of the bill wasn't done and that we didn't have that piece of the bill in front of us in another form that we could actually debate and perhaps have a vote on. That seems to be more acceptable to some and perhaps not to others.

1120

I'll be, hopefully, wanting to vote on the whole bill and to vote against it, because I think first of all the process is wrong. This is a fundamental change in the way municipalities operate and the powers they have. Having said that, I understand the dilemma that municipalities find themselves in. The province has created just an unimaginable mess, a challenge for municipalities to have to deal with.

The parliamentary assistant mentioned the issue of overseeing the operation of health units and the delivery of ambulance services, and if he suggests for a minute that they were vehicles of municipal council, he's dead wrong. I don't know where he's coming from or why he doesn't understand that health units operated independently from municipal councils were funded primarily by the province and operated under guidelines and standards that were set by the province. I don't know what municipality at this point delivers ambulance services or did deliver ambulance services, but that's a new piece that municipalities have to pick up and run with. It creates for them some really difficult challenges.

I don't think this is the process for them to use to respond to that and to somehow creatively deal with it. I think there has to be a fuller discussion on a wider level around the whole question of what do municipalities do, what should they be doing and what can they realistically afford to do? What should the province be doing? What is it that the province has a responsibility for? And in the context of that, I suppose in another venue, what is it that the federal government has a responsibility for and what should they be doing?

This is a fundamental change in the relationship between municipalities and the province and a fundamental change in the powers that municipalities have to change the way they deliver services. I am absolutely and totally opposed to the privatization of the delivery of government services. I think it takes away responsibility and it takes away accountability. It also hives off a chunk of the money that we collectively put into a pool to buy services for ourselves to be delivered by professionals and turns over a chunk of that money to the private sector by way of profit that I think could be better used to buy even more services and to make sure that the people who are delivering those services are adequately compensated and looked after so they can do their jobs in a professional manner.

I'll be voting against the deferral, hopefully to the end that we will then get a chance to vote on the bill, which I'll be voting against as well.

Mr Shea: Just before I respond to Mr Martin's ill-tempered outburst, I presume driven more by ideology, although I am confused now because I don't know which of the opposition parties now speaks for CUPE or the various unions, but we'll resolve that somewhere else — a question to the parliamentary assistant.

Mr Hardeman, would you indicate for me — the motion before us right now is to defer, and that is to defer the entire bill. I am persuaded by the mayor that there is more than a little merit to get him out of the conundrum he faces in terms of the Municipal Act in terms of the board of control. I think the mayor is absolutely right on in that regard. Can you assist me? Would we be creating any awkwardness for your ministry if we were to separate out the deferral motion and at least deal with the board of control to allow it to be in conformity with the other board

of control that currently exists in London, I think? Frankly, I'm a supporter of boards of control. Is there a way for us to bring that into conformity without creating awkwardness for the ministry but deal with the other part of it at least on a pro tem basis?

Mr Hardeman: I'm not sure I can say whether it would create a difficulty for the ministry and I'm not sure that should be a concern of this committee. We have, at least in my opinion, some procedural concerns as we deal with this. I would point out to the committee that if the committee is inclined to deal with one section, the deferral option is not available on any other section. We cannot deal with one section and defer a decision on other sections. We can deal with one section and then one must deal with all the other sections, whether you would approve or not approve those sections.

Mr Shea: All right. I respect that response.

Mr Hardeman: I think in a procedural approach there is some concern.

I would also, Mr Shea, point out the concern that I personally would have with the board of control issue. It deals with the issue that has been pointed out on some, if not all, of the other sections of the bill: whether the people are aware of what impact passing that section or that part of the bill will be to them.

Again, not to suggest that the mayor did not suggest that this was in the best interests of all those people and will be helpful to all the people who today are at the table, my understanding in some of the discussions I've had with individuals from the Kingston area is that some of the suburban people realized that the board of control would require two thirds of council to overturn a board of control decision, recognizing that the board of control makes all financial decisions.

The suburban areas had some concern about their voice being heard at the new city council table. They felt that one of the pluses was to have a requirement that it would take two thirds of city council to overturn a board of control decision. For the people I've heard from it is not as simple as just saying: "We didn't understand. We think the 50%-plus-one vote is appropriate for overturning board of control decisions." I think that, along with some other parts of the bill, requires slightly more input from the people who are going to be impacted by such a decision.

Mr Shea: Would it be your undertaking to ensure that there is staff deployed to assist the mayor in terms of resolving some of the concerns, if it's possible, with the various ministries and to do that in an expeditious fashion?

Mr Hardeman: The ministry is always at the disposal of all the municipalities in helping them to achieve their common goal and to improve the effective and efficient operation of their municipalities. I can assure you that our ministry will be available to assist in any way they can in trying to address these concerns by the city of Kingston.

Mr Shea: I want to conclude my comments by complimenting the mayor. I think you've handled this in a very even-handed way and I, for one, understand the awkward situation that you find yourself in. In some ways it's not of anyone's making; it's all of us trying to work our way through some new waters. I must say that I personally applaud you and your council for trying to develop new models to give us some new directions. This is not a partisan comment; I'll get partisan in a minute. This is regardless of what party is in power. That's where we're at.

Now let me get partisan for just a moment, Mr Mayor, and having thanked you, move on to comments made just a little earlier. Mr Martin particularly, although echoed to a much lighter sense from his Liberal colleagues, made some comments as though all of this is a result of some of the restructuring of the last year or so. It would have helped me had they read Road to Recovery, had they recognized that the city of Kingston itself has indicated very clearly historic difficulties that have been accumulating over some time. The person sitting to your right, Mr Gerretsen, would recognize some of them as not just having been dated since 1995. They go back some distance.

You pointed out the demographic changes. You pointed out the economic changes. You pointed out the decline in jobs. You pointed out the average unemployment circumstances, which are not enviable anywhere and that you want to deal with. You pointed out the public sector restructuring, the pressure on social infrastructure. You pointed out the fact of over $200 million in deferred costs of capital, which is not just in the last five months or year or whatever.

Had some read the report, it would have been very helpful, I would think, to say that much of this is a cumulative weight that bears upon not just your municipality but many others, as it bears upon the province of Ontario or even the federal government. It is something all governments are trying to wrestle with.

Getting this now out of the partisan nonsense that somehow gets here, I want to say thank you for bringing it forward. You will indeed have my support in helping in any way I can to bring this to a speedy resolution. I think there is some merit in what you are bringing forward. I think it's worth some discussion. I agree, although I strain myself to do this, with others who have suggested we need to have a much broader debate on this. I agree with that totally. You've walked into some areas here that we should look at in terms of municipal affairs and I hope they'll deal with it very quickly.

The Vice-Chair: Could we have, Mr Gerretsen, just one very brief comment and then I'll call for a vote.

Mr Gerretsen: Yes. I'm sure that the mayor would be more than prepared to withdraw those sections dealing with the restructuring agreement if the province would pay the $15 million that we're short right now.

The Vice-Chair: Can we have a vote on the motion to defer Bill Pr22, An Act respecting the City of Kingston? All in favour of the motion to defer? The motion is defeated.

Now I understand the procedure calls for voting on the bill section by section.

Shall section 1 carry? Defeated.

Shall section 2 carry? Defeated.
Shall section 3 carry? Defeated.
Shall section 4 carry? Defeated.
Shall section 5 carry? Defeated.
Shall section 6 carry? Defeated.
Shall section 7 carry? Defeated.
Shall section 8 carry? Defeated.
Shall section 9 carry? Defeated.
Shall section 10 carry? Defeated.
Shall the preamble carry? Defeated.
Shall the title carry? Defeated.
Shall the bill carry? Defeated.

Mr Ruprecht: Could we get the vote on the preamble, please? I heard one member say yes and three say no.

Mr Hardeman: That's still enough, Tony.

The Vice-Chair: Shall the bill be not reported? Agreed.

Thank you very much, everyone, and the meeting is adjourned.

The committee adjourned at 1133.

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